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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 31066; Amdt. No. 525]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

DATES: Effective Date: 0901 UTC, March 31, 2016.

FOR FURTHER INFORMATION CONTACT: Richard A. Dunham, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK. 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Airspace, Navigation (air).

Issued in Washington, DC, on February 26, 2016.

John Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC, March 10, 2016.

■ 1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44719, 44721.

■ 2. Part 95 is amended to read as follows:

Revisions to IFR Altitudes & Changeover Point Amendment 525 Effective Date March 31, 2016

From	To	MEA	MAA
§ 95.4000 High Altitude RNAV Routes			
§ 95.4070 RNAV Route Q70 Is Added To Read			
Hailo, CA WP *18000–GNSS MEA	Las Vegas, NV VORTAC	*18000	45000
Las Vegas, NV VORTAC *18000–GNSS MEA	Ifeye, NV WP	*20000	45000
Ifeye, NV WP *18000–GNSS MEA	Blipp, NV WP	*20000	45000
Blipp, NV WP *18000–GNSS MEA	Eevun, UT WP	*20000	45000
Eevun, UT WP	Blobb, UT WP	*20000	45000

From	To	MEA	MAA
*18000–GNSS MEA			
Blobb, UT WP	Bawer, UT WP	*22000	45000
*18000–GNSS MEA			
Bawer, UT WP	Sakes, UT FIX	*22000	45000
*18000–GNSS MEA			
§ 95.4073	**RNAV Route Q73 Is Added To Read**		
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*GNSS Required			
Cabic, CA WP	Chadt, CA WP	*18000	45000
*GNSS Required			
Chadt, CA WP	Lvell, CA WP	*18000	45000
*GNSS Required			
Lvell, CA WP	Hakmn, NV WP	*18000	45000
*GNSS Required			
Hakmn, NV WP	Zzyzx, NV WP	*18000	45000
*GNSS Required			
ZZYZX, NV WP	Lakrr, NV WP	*18000	45000
*GNSS Required			
Lakrr, NV WP	Guntr, AZ WP	*18000	45000
*GNSS Required			
Guntr, AZ WP	Zainy, AZ WP	*18000	45000
*GNSS Required			
Zainy, AZ WP	Eevun, UT WP	*18000	45000
*GNSS Required			
Eevun, UT WP	Winen, UT WP	*18000	45000
*GNSS Required			
Winen, UT WP	Crito, NV WP	*18000	45000
*GNSS Required			
Crito, NV WP	Broph, ID WP	*18000	45000
*GNSS Required			
Broph, ID WP	Derso, ID FIX	*18000	45000
*GNSS Required			
Derso, ID FIX	Sawtt, ID WP	*18000	45000
*GNSS Required			
Sawtt, ID WP	Zatip, ID FIX	*18000	45000
*GNSS Required			
Zatip, ID FIX	Cordu, ID FIX	*18000	45000
*GNSS Required			
§ 95.4074	**RNAV Route Q74 Is Added To Read**		
Natee, NV WP	Boulder City, NV VORTAC	*18000	45000
*18000–GNSS MEA			
Boulder City, NV VORTAC	Zainy, AZ WP	*20000	45000
*18000–GNSS MEA			
Zainy, AZ WP	Fizzl, AZ WP	*20000	45000
*18000–GNSS MEA			
Fizzl, AZ WP	Gardd, UT WP	*20000	45000
*18000–GNSS MEA			
Gardd, UT WP	Deann, UT WP	*20000	45000
*18000–GNSS MEA			
§ 95.4078	**RNAV Route Q78 Is Added To Read**		
Marue, NV WP	Duggn, AZ WP	*24000	45000
*18000–GNSS MEA			
Duggn, AZ WP	Toadd, AZ WP	*24000	45000
*18000–GNSS MEA			
§ 95.4086	**RNAV Route Q86 Is Added To Read**		
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*18000–GNSS MEA			
Yorrk, AZ WP	Schls, AZ WP	*20000	45000
*18000–GNSS MEA			
Schls, AZ WP	Cutro, AZ WP	*20000	45000
*18000–GNSS MEA			
Cutro, AZ WP	Valeq, AZ WP	*20000	45000
*18000–GNSS MEA			
Valeq, AZ WP	Plndl, AZ WP	*20000	45000
*18000–GNSS MEA			

From	To	MEA	MAA
§ 95.4088 RNAV Route Q88 Is Added To Read			
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*18000–GNSS MEA			
Zzyzx, NV WP	Lakrr, NV WP	*22000	45000
*18000–GNSS MEA			
Lakrr, NV WP	Nootn, AZ FIX	*22000	45000
*18000–GNSS MEA			
Nootn, AZ Fix	Gardd, UT WP	*22000	45000
*18000–GNSS MEA			
Gardd, UT WP	Verkn, UT WP	*22000	45000
*18000–GNSS MEA			
Verkn, UT WP	Promt, UT WP	*22000	45000
*18000–GNSS MEA			
Promt, UT WP	Chesz, UT WP	*22000	45000
*18000–GNSS MEA			
§ 95.4090 RNAV Route Q90 Is Added To Read			
Dnero, CA WP	Esgee, NV WP	*20000	45000
*18000–GNSS MEA			
Esgee, NV WP	Areaf, AZ WP	*20000	45000
*18000–GNSS MEA			
Areaf, AZ WP	Jasse, AZ WP	*20000	45000
*18000–GNSS MEA			
§ 95.4094 RNAV Route Q94 Is Added To Read			
Welum, NV WP	Mnggo, AZ WP	*22000	45000
*18000–GNSS MEA			
Mnggo, AZ WP	Rooll, AZ WP	*22000	45000
*18000–GNSS MEA			
§ 95.4096 RNAV Route Q96 Is Added To Read			
Purse, NV WP	Doddl, NV WP	*22000	45000
*18000–GNSS MEA			
Doddl, NV WP	Bfune, AZ WP	*22000	45000
*18000–GNSS MEA			
Bfune, AZ WP	Guntr, AZ WP	*18000	45000
*18000–GNSS MEA			
Guntr, AZ WP	Piixr, AZ WP	*22000	45000
*18000–GNSS MEA			
Piixr, AZ WP	Fizzl, AZ WP	*22000	45000
*18000–GNSS MEA			
Fizzl, AZ WP	Bawer, UT WP	*22000	45000
*18000–GNSS MEA			
Bawer, UT WP	Roccy, UT WP	*22000	45000
*18000–GNSS MEA			
Roccy, UT WP	Saraf, UT WP	*22000	45000
*18000–GNSS MEA			
Saraf, UT WP	Kimmr, UT WP	*22000	45000
*18000–GNSS MEA			
§ 95.4098 RNAV Route Q98 Is Added To Read			
Hakmn, NV WP	Zzyzx, NV WP	*18000	45000
*18000–GNSS MEA			
Zzyzx, NV WP	Lakrr, NV WP	*18000	45000
*18000–GNSS MEA			
Lakrr, NV WP	Duzit, AZ WP	*20000	45000
*18000–GNSS MEA			
Duzit, AZ WP	Eeezy, AZ WP	*24000	45000
*18000–GNSS MEA			
Eeezy, AZ WP	Peewe, AZ WP	*24000	45000
*18000–GNSS MEA			
§ 95.4114 RNAV Route Q114 Is Added To Read			
Natee, NV WP	Boulder City, NV Vortac	*18000	45000
*18000–GNSS MEA			
Boulder City, NV Vortac	Zainy, AZ WP	*20000	45000
*18000–GNSS MEA			
Zainy, AZ WP	Ahoww, UT WP	*20000	45000
*18000–GNSS MEA			

From	To	MEA	MAA
Ahoww, UT WP *18000–GNSS MEA	Bawer, UT WP	*24000	45000
Bawer, UT WP *18000–GNSS MEA	Buggg, UT WP	*24000	45000
§ 95.4168 RNAV Route Q168 Is Added To Read			
Fnnda, CA WP *18000–GNSS MEA	Shiva, AZ WP	*21000	45000
Shiva, AZ WP *18000–GNSS MEA	Krina, AZ WP	*21000	45000
Krina, AZ WP *18000–GNSS MEA	Jasse, AZ WP	*21000	45000
§ 95.4842 RNAV Route Q842 Is Added To Read			
Beale, NV WP *GNSS Required	Blipp, NV WP	*18000	45000
Blipp, NV WP *GNSS Required	Winen, UT WP	*18000	45000
Winen, UT WP *GNSS Required	Tabll, UT WP	*18000	45000
Tabll, UT WP *GNSS Required	Picho, UT WP	*18000	45000
Picho, UT WP *GNSS Required	Patio, UT WP	*18000	45000
Patio, UT WP *GNSS Required	Proxi, UT WP	*18000	45000
Proxi, UT WP *GNSS Required	Vaane, MT WP	*18000	45000
Vaane, MT WP *GNSS Required	Keeta, MT WP	*18000	45000
Keeta, MT WP *GNSS Required	U.S. Canadian Border	*18000	45000

From	To	MEA
§ 95.6001 Victor Routes—U.S.		
§ 95.6248 VOR Federal Airway V196 Is Amended To Read in Part		
Saranac Lake, NY VOR/DME	Rigid, NY FIX	5000
Is Amended To Delete		
Rigid, NY FIX	Plattsburgh, NY VORTAC	5000
§ 95.6248 VOR Federal Airway V248 Is Amended To Read in Part		
Avenal, CA Vortac *3200–Moca	Scrap, CA FIX	*4000
Scrap, CA FIX *3000–Moca	Shafter, CA VORTAC. W BND E BND	 *4000 *3000
§ 95.6248 VOR Federal Airway V489 Is Amended To Delete		
Glens Falls, NY VORTAC *8000–MRA	*Fairb, NY FIX	6000
Fairb, NY FIX *6000–GNSS MEA	Leafy, NY FIX	*8000
Leafy, NY FIX	Keese, NY FIX	5200
Keese, NY FIX	Plattsburgh, NY VORTAC	3300

From	To	MEA	MAA
§ 95.7001 Jet Routes			
§ 95.7477 Jet Route J6 Is Amended To Delete			
Albany, NY VORTAC	Plattsburgh, NY VORTAC	18000	45000

From	To	MEA	MAA
§ 95.7477 Jet Route J97 Is Amended To Delete			
Boston, MA VOR/DME	Plattsburgh, NY VORTAC	18000	45000
§ 95.7477 Jet Route J222 Is Amended To Delete			
Cambridge, NY VOR/DME	Plattsburgh, NY VORTAC	18000	45000
§ 95.7477 Jet Route J477 Is Amended To Delete			
Glasgow, MT VOR/DME	U.S. Canadian Border	18000	45000

From	To	Changeover Points	
		Distance	From
§ 95.8003 VOR Federal Airway Changeover Point Airway Segment			
V489 Is Amended To Delete Changeover Point			
Glens Falls, NY VORTAC	Plattsburgh, NY VORTAC	21	Glens Falls

[FR Doc. 2016–04855 Filed 3–4–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 14

[Docket No. FDA–2016–N–0001]

Pharmaceutical Science and Clinical Pharmacology Advisory Committee

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the standing advisory committees' regulations to change the name of the Advisory Committee for Pharmaceutical Science and Clinical Pharmacology. This action is being taken to reflect the change made to the charter for this advisory committee.

DATES: This rule is effective March 7, 2016. The name change became applicable January 22, 2016.

FOR FURTHER INFORMATION CONTACT: Teresa Hays, Committee Management Officer, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993, 301–796–8220.

SUPPLEMENTARY INFORMATION: FDA is announcing that the name of the Advisory Committee for Pharmaceutical Science and Clinical Pharmacology, which was established on January 22, 1990, has been changed. The Agency decided that the name ''Pharmaceutical Science and Clinical Pharmacology Advisory Committee'' more accurately describes the subject areas for which the committee is responsible. The committee reviews and evaluates scientific, clinical, and technical issues related to the safety and effectiveness of drug products for use in the treatment of a broad spectrum of human diseases; the quality characteristics that such drugs purport or are represented to have and, as required, any other product for which the Food and Drug Administration has regulatory responsibility; and makes appropriate recommendations to the Commissioner of Food and Drugs. The committee may also review Agency sponsored intramural and extramural biomedical research programs in support of FDA's drug regulatory responsibilities and its critical path initiatives related to improving the efficacy and safety of drugs and improving the efficiency of drug development.

The Pharmaceutical Science and Clinical Pharmacology Advisory Committee name was changed in the charter renewal dated January 22, 2016. In this final rule, FDA is revising 21 CFR 14.100(c)(15) to reflect the change.

Publication of this final rule constitutes a final action on this change under the Administrative Procedure Act. Under 5 U.S.C. 553(b)(3)(B) and (d) and 21 CFR 10.40(d) and (e), the Agency finds good cause to dispense with notice and public procedures and to proceed to an immediately effective regulation. Such notice and procedures are unnecessary and are not in the public interest because the final rule is merely codifying the new name of the advisory committee to reflect the current committee charter.

List of Subjects in 21 CFR Part 14

Administrative practice and procedure, Advisory committees, Color additives, Drugs, Radiation protection.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs, 21 CFR part 14 is amended as follows:

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

■ 1. The authority citation for 21 CFR part 14 continues to read follows:

Authority: 5 U.S.C. App. 2; 15 U.S.C. 1451–1461, 21 U.S.C. 41–50, 141–149, 321–394, 467f, 679, 821, 1034; 28 U.S.C. 2112; 42 U.S.C. 201, 262, 263b, 264, Pub. L. 107–109; Pub. L. 108–155; Pub. L. 113–54.

■ 2. Section 14.100 is amended by revising the heading of paragraph (c)(15) to read as follows:

§ 14.100 List of standing advisory committees.

* * * * *

(c) * * *

(15) *Pharmaceutical Science and Clinical Pharmacology Advisory Committee.* * * *

* * * * *

Dated: March 1, 2016.

Jill Hartzler Warner,

Associate Commissioner for Special Medical Programs.

[FR Doc. 2016–04940 Filed 3–4–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

[Docket No. FDA–2003–N–0446 (formerly 2003N–0324)]

New Animal Drugs for Use in Animal Feeds; Removal of Obsolete and Redundant Regulations

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is removing regulations that required sponsors to submit data regarding the subtherapeutic use of certain antibiotic, nitrofuran, and sulfonamide drugs administered in animal feed as these regulations have been determined to be obsolete. FDA has other strategies for assessing the safety of antimicrobial new animal drugs with regard to their microbiological effects on bacteria of human health concern, and the only remaining animal drug use listed in these regulations is now listed elsewhere in the new animal drug regulations.

DATES: This rule is effective April 6, 2016.

ADDRESSES: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number found in brackets in the heading of this final rule 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: William T. Flynn, Center for Veterinary Medicine (HFV–1), 7519 Standish Pl., Rockville, MD 20855, 240–402–5704, email: *william.flynn@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of August 8, 2003 (68 FR 47272), FDA published a notice of proposed rulemaking to remove 21 CFR 558.15, *Antibiotic, nitrofuran, and sulfonamide drugs in the feed of animals* (§ 558.15), on the grounds that these regulations were obsolete or redundant. The proposed rule explained the nature and purpose of § 558.15, and noted that most of the products and use combinations subject to the listings in that section had approvals that were already codified in part 558, subpart B of this chapter.

In the same issue of the **Federal Register** as the proposed rule, FDA's Center for Veterinary Medicine (CVM) published a Notice of Opportunity for Hearing (NOOH), which announced CVM's findings of effectiveness for nine products and use combinations that were listed in § 558.15, but which were subject to the Drug Efficacy Study Implementation (DESI) program (68 FR 47332). CVM proposed to withdraw the new animal drug applications (NADAs) for those nine products and use combinations lacking substantial evidence of effectiveness, following an opportunity to supplement the NADAs with labeling conforming to the relevant findings of effectiveness. For applications proposed to be withdrawn, the Agency provided an opportunity for hearing.

The Agency received only one set of comments on the 2003 proposed rule, from Pennfield Oil Co. (Pennfield). At that time, Pennfield was the sponsor of NADA 141–137, a bacitracin methylene disalicylate (BMD) Type A medicated article that is listed in the table in § 558.15(g)(1). In the table, the listing is under Fermenta Animal Health Co., which was a predecessor in interest to Pennfield. In response to the NOOH, Pennfield submitted a hearing request regarding this product. In its comments on the 2003 proposed rule, Pennfield objected to the removal of § 558.15 until the issues in the NOOH were addressed. It argued that the BMD listing in § 558.15 provides evidence of Pennfield's approval, and that removal of that section, without updating the BMD listing in part 558, subpart B, would result in a lack of recognition in the regulations of the approval that Pennfield currently has. Pharmgate LLC (Pharmgate) is the current sponsor of NADA 141–137 (80 FR 13226, March 13, 2015).

For the eight other products and use combinations subject to the NOOH, FDA received supplemental applications with labeling conforming to the relevant findings of effectiveness. FDA approved those applications in 2006 and 2009 and amended part 558 subpart B to reflect those approvals (71 FR 16222 (March 31, 2006); 71 FR 16223 (March 31, 2006); and 74 FR 40723 (August 13, 2009)). Subsequent to those approvals, FDA finalized portions of the 2003 proposed rule by removing from the tables in § 558.15(g) the products and use combinations that were not approved, and the products and use combinations whose approval was reflected in part 558, subpart B (71 FR 16219 (March 31, 2006) and 75 FR 16001 (March 31, 2010)). FDA retained only the listing in the table in § 558.15(g)(1) relating to NADA 141–137 as well as § 558.15(a) through (f). In both the 2006 and 2010 final rules, FDA stated it intended to continue to finalize the proposed rule to remove all of § 558.15.

Recently, Pharmgate filed a supplemental application to NADA 141–137 which provided labeling conforming to the relevant findings of effectiveness announced in the NOOH. FDA approved this supplement on October 6, 2015. Also on October 6, 2015, Pharmgate withdrew the hearing request relating to NADA 141–137. FDA has since published in the **Federal Register** a notice amending § 558.76 of subpart B to reflect this supplemental approval (80 FR 79474, December 22, 2015).

Because the approval of NADA 141–137 is now listed in § 558.76 of subpart B, FDA is removing its associated listing in § 558.15(g)(1) as obsolete. In addition, FDA is finalizing the proposed rule by removing all of the other remaining portions of § 558.15 because they are also obsolete. A conforming change is made in § 558.4.

II. Economic Analysis of Impacts

We have examined the impacts of the final rule under Executive Order 12866, the Regulatory Flexibility Act (5 U.S.C. 601–602), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Order 12866 directs us to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). We believe that this final rule is not a significant regulatory action as defined by Executive Order 12866.

The Regulatory Flexibility Act requires us to analyze regulatory options to minimize any significant impact on a substantial number of small entities. We have determined that this final rule does not impose compliance costs on the sponsors of any products that are currently marketed. Further, it does not cause any drugs that are currently marketed to lose their marketing ability. Therefore, FDA certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

The Unfunded Mandates Reform Act of 1995 (section 202(a)) requires us to prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that may result in an annual expenditure by State, local and tribal

governments, in the aggregate, or by the private sector, of $100 million (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $144 million, using the most current (2014) Implicit Price Deflator for the Gross Domestic Product. This final rule would not result in any 1-year expenditure that meets or exceeds this amount.

FDA proposed the removal of § 558.15 on August 8, 2003, because it was obsolete or redundant. The original purpose of § 558.15 was to require the submission of the results of studies on the long-term administration of then-marketed antimicrobial drugs in animal feed on the occurrence of multiple drug-resistant bacteria associated with these animals. FDA determined that this section was obsolete as FDA had a new strategy and concept for assessing the safety of antimicrobial new animal drugs, including subtherapeutic use of antimicrobials in animal feed, with regard to their microbiological effects on bacteria of human health concern. This final rule removes the only remaining animal drug use listed in § 558.15(g), which is obsolete since approval of its NADA is now listed elsewhere in part 558.

Only one set of comments to the proposal was received by FDA. Since these comments did not question the benefits as described in the proposed rule, we retain the benefits for the final rule. This final rule is expected to provide greater clarity in the regulations for new animal drugs for use in animal feeds by deleting obsolete provisions in § 558.15. We do not expect this final rule to result in any direct human or animal health benefit. Rather, this final rule would remove regulations that are no longer necessary.

We do not expect the final rule that revokes the remaining portions of § 558.15 to have a substantive effect on any approved new animal drug or to cause any approved new animal drug to lose its marketing ability or experience a loss of sales.

III. Analysis of Environmental Impact

We have determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Paperwork Reduction Act

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

■ 1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 354, 360b, 360ccc, 360ccc–1, 371.

§ 558.4 [Amended]

■ 2. In paragraph (c) of § 558.4, remove ''and in § 558.15 of this chapter''.

§ 558.15 [Removed]

■ 3. Remove § 558.15.

Dated: March 1, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–04945 Filed 3–4–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DOD–2014–HA–0133]

RIN 0720–AB62

TRICARE; Revision of Nonparticipating Providers Reimbursement Rate; Removal of Cost Share for Dental Sealants; TRICARE Dental Program

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This final rule revises the benefit payment provision for nonparticipating providers to more closely mirror industry practices by requiring TDP nonparticipating providers to be reimbursed (minus the appropriate cost-share) at the lesser of billed charges or the network maximum allowable charge for similar services in that same locality (region) or state. This rule also updates the regulatory provisions regarding dental sealants to clearly categorize them as a preventive service and, consequently, eliminate the current 20 percent cost-share applicable to sealants to conform with the language in the regulation to the statute.

DATES:

Effective date: The final rule is effective April 6, 2016.

Applicability date: The programmatic improvements in this final rule are scheduled to take effect as soon as the Director, Defense Health Agency can effectively and efficiently implement through award of a new TRICARE Dental Program contract. No change will be negotiated for existing contracts to implement this rule. Implementation through the new contract will be effective with the start of care delivery under the new contract (currently anticipated to start February 1, 2017).

FOR FURTHER INFORMATION CONTACT: Col James Honey, Defense Health Agency, telephone (703) 681–0039.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

1. Purpose of Regulatory Actions

a. Need for Regulatory Actions

(1) Revision of Nonparticipating Providers' Reimbursement Rate

Prior to 2006, TRICARE Dental Program (TDP) participating and nonparticipating providers were reimbursed at the equivalent of not less than the 50th percentile of prevailing charges made for similar services in the same locality (region) or state, or the provider's actual charge, whichever is lower, less any cost-share amount due for authorized services. This provision was included in the regulation to constitute a significant financial incentive for participation of providers in the contractor's network and to ensure a network of quality providers through use of a higher reimbursement rate. Over time, the Department discovered that this provision placed an unnecessary burden on contractors with already established, high quality provider networks with reimbursement rates below the 50th percentile that were of sufficient size to meet the access requirements of the TDP. Consequently, the Department of Defense published a final rule in the **Federal Register** on January 11, 2006 (71 FR 1695), revising the participating provider's reimbursement rate for the TDP that has resulted in significant cost savings to the TDP enrollees and the Government. Since over 80 percent of all TDP care was provided by network dentists, the need to also change the reimbursement rate for nonparticipating dentists was overlooked and not included in the 2006 rule change. However, over the past eight years this has created an incentive for some network providers to leave the TDP network and for other providers not to become network providers. As the rule is currently written, depending on the geographic location, some non-network providers

are actually reimbursed at a higher amount than they would have been had they been a participating provider and receiving the negotiated network rate. Specifically, the final rule will require TDP nonparticipating providers to be reimbursed (minus the appropriate cost-share) at the lesser of (1) billed charges; (2) the network maximum allowable charge for similar services in that same locality (region) or state. This revision will increase the number of network providers and provide cost savings to enrollees and the Government.

(2) Removal of Cost-Share for Dental Sealants

Sealants are currently separately defined in the TDP regulation at 32 CFR 199.13(b)(24), and specifically identified as a covered non-preventive service subject to a 20 percent cost-share. The cost-share for dental sealants was originally put in place when there was minimal evidence as to the effectiveness of dental sealants preventing tooth decay. The scientific evidence is now overwhelming that dental sealants are effective in preventing tooth decay and the vast majority of commercial dental insurance plans cover this procedure with no cost shares. Further, the American Dental Association's Council on Dental Care Programs Code on Dental Procedures and Nomenclature classifies dental sealants as a preventive procedure. Additionally, the Department currently recognizes sealants as a preventive service under the TRICARE Retiree Dental Program per 32 CFR 199.22(f)(1)(ii)(C). The regulatory revisions regarding dental sealants will delete the separate definition of dental sealants, specifically include sealants as a category of preventive service under 32 CFR 199.13(e)(2)(i)(B), delete any possible inconsistency in the definition of preventive service in 32 CFR 199.13(b)(20) and (e)(2)(i), and update the cost-share table in 32 CFR 199.13(e)(3)(i) to delete the specific line item reference to sealants being subject to a 20 percent cost-share in order to conform with the requirement in 10 U.S.C. 1076a(e)(1)(A) that TDP enrollees pay no charge for preventive services.

b. Legal Authority for the Regulatory Action

This regulation is finalized under the authority of 10 U.S.C. 1076a which authorizes the Secretary of Defense to establish a voluntary enrollment dental plan for eligible dependents of members of the uniformed services who are on active duty for a period of more than 30 days, members of the Selected Reserve of the Ready Reserve, members of the Individual Ready Reserve, and eligible dependents of members of the Ready Reserve of the reserve components who are not on active duty for more than 30 days.

2. Summary of the Final Rule

In this final rule, the regulatory language changes nonparticipating provider (*e.g.* non-network or out-of-network) reimbursement at 32 CFR 199.13(g)(2)(i) to be on an equivalent basis with network reimbursement, in order to serve as an incentive for both providers to participate in the network and for beneficiaries to utilize network providers in order to avoid additional out-of-pocket costs for balance billing. The final rule includes several technical revisions for clarification and consistency sake in defining beneficiary liability, nonparticipating provider and participating provider in the context of the TDP. The final rule also amends several provisions within 32 CFR 199.13 to eliminate the separate definition of sealants, specifically include sealants as a covered preventive service, and remove beneficiary cost sharing by covering sealants at 100 percent of allowable charge as authorized by law.

3. Summary of the Costs and Benefits

This final rule is not anticipated to have an annual effect on the economy of $100 million or more, making it a substantive, non-significant rule under the Executive Order and the Congressional Review Act. The amendment to transition nonparticipating provider reimbursement to be on an equivalent basis with network reimbursement, will result in (1) a lower allowed-to-billed ratio and a decrease in TDP claim payments, (2) premium decreases for beneficiaries; (3) a corresponding increase in enrollment by eligible beneficiaries as a result of these premium changes; (4) resultant cost savings to the government through reduced premium subsidies; and (5) increased out-of-pocket costs for beneficiaries who opt to use a nonparticipating provider who may balance bill for the difference in contractor payment at the current rates and the new, lower network agreement rates. While the requirements for sealant coverage will not change, the removal of beneficiary cost sharing for sealants will result in (1) a marginal increase in sealant utilization, as we anticipate most beneficiaries requiring sealants are currently receiving these services since they remain a relatively inexpensive procedure and are typically viewed as beneficial; (2) a minimal premium increase for beneficiaries; and (3) an increase in government costs as a result of both the direct effect of the waived cost sharing on current sealant services and the full cost of the additional utilization. We estimate that the net effects of the TDP provisions that would be implemented by this rule would result in a net premium decrease for TDP beneficiaries and corresponding cost savings to the government over $17 million per year as well as an anticipated increase in the number of participating network providers.

II. Background

1 . Statutory and Regulatory Background

The TRICARE Dental Program (TDP) allows the Secretary of Defense to offer comprehensive premium based indemnity dental insurance coverage to qualified individuals. The funds used by the TDP are appropriated funds furnished by Congress through annual appropriation acts and funds collected as premium shares from beneficiaries. TDP is delivered through a competitively procured contract awarded by the Director, Defense Health Agency, or designee. TDP enrollees are required to pay all or a portion of the premium cost depending on their status. For those eligible for premium sharing, including active duty dependents and certain Selected Reserve and Individual Reserve members, the portion of premium share to be paid by them is no more than forty (40) percent of the total premium. For those entitled to premium sharing, the Government pays the remaining sixty (60) percent of the premium. Additional information regarding the TDP is available at *www.tricare.mil/tdp.*

Because the amendments to 32 CFR 199.13 will result in changes to the TDP voluntary enrollment dental insurance plan which is administered through a competitively procured contract, these amendments will be incorporated into the next TDP contract and are scheduled to take effect with the start of health care delivery under the next awarded TDP contract (currently anticipated to start February 1, 2017).

2. Summary of the Proposed Rule

We proposed several amendments to the TRICARE Dental Program (TDP) regulation. Specifically, we proposed revising the benefit payment provision for nonparticipating providers to more closely mirror industry practices by requiring TDP nonparticipating providers to be reimbursed (minus the appropriate cost-share) at the lesser of (1) billed charges: Or (2) the network maximum allowable charge for similar

services in that same locality (region) or state. This rule also proposed updates to the regulatory provisions regarding dental sealants to clearly categorize them as a preventive service and, consequently, eliminate the current 20 percent cost-share applicable to sealants to conform the language in the regulation to the statute.

3. Summary of the Final Rulemaking

The final rule changes the nonparticipating provider (*e.g.* non-network or out-of-network) reimbursement at 32 CFR 199.13(g)(2)(i) to be on an equivalent basis with network reimbursement, in order to serve as an incentive for both providers to participate in the network and for beneficiaries to utilize network providers in order to avoid additional out-of-pocket costs for balance billing. The final rule also eliminates the separate definition of sealants found at 32 CFR 199.13(b)(24) in favor of including it as a category of preventive service under 32 CFR 199.13(e)(2)(i)(B). Also, as a result of clearly classifying dental sealants as a preventive service, the final rule eliminates the current 20 percent cost-share to conform with the requirement in 10 U.S.C. 1076a(e)(1)(A) that TDP enrollees pay no charge for preventive services.

III. Summary of and Response to Public Comments

The proposed rule was published in the **Federal Register** (79 FR 78362) December 30, 2014, for a 60-day comment period. We received only one comment on the proposed rule applauding the proposed change to remove the 20 percent cost share for dental sealants. Because the comment supported the proposed changes, we are finalizing the proposed rule with no changes.

IV. Regulatory Procedures

Executive Order 12866, ''Regulatory Planning and Review'' and E.O. 13563, ''Improving Regulation and Regulatory Review''

It has been determined that his final rule is not a significant regulatory action. This rule does not:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy; a section of the economy; productivity; completion; jobs; the environment; public health or safety; or State, local, or tribunal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Orders.

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

It has been determined that this final rule does not contain a Federal mandate that may result in the expenditure by State, local and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

It has been certified that this final rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. Set forth in the final rule are minor revisions to the existing regulation. The DoD does not anticipate a significant impact on the Program.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

It has been determined that this final rule will not impose additional reporting or recordkeeping requirements under the Paperwork Act of 1995. Existing information collections requirements of the TRICARE and Medicare programs will be utilized.

Executive Order 13132, Federalism

It has been determined that this final rule does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

(1) The States;

(2) The relationship between the National Government and the States; or

The distribution of power and responsibilities among the various levels of Government.

List of Subjects in 32 CFR Part 199

Claims, Dental health, Health care, Health insurance, Dental sealants, Military personnel.

Accordingly, 32 CFR part 199 is amended as follows:

PART 199—[AMENDED]

■ 1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

■ 2. Section 199.13 is amended by:

■ a. Revising paragraphs (b)(4), (14), (17), and (20).

■ b. Removing paragraph (b)(24).

■ c. Revising paragraph (e)(2)(i) introductory text.

■ d. Adding paragraph (e)(2)(i)(B)(*5*).

■ e. Removing the entry entitled ''Sealants'' from the table following paragraph (e)(3)(i).

■ f. Revising paragraphs (f)(5) and (g)(2)(i).

The revisions and additions read as follows:

§ 199.13 TRICARE Dental Program.

* * * * *

(b) * * *

(4) *Beneficiary liability.* The legal obligation of the beneficiary, his or her estate, or responsible family member to pay for the costs of dental care or treatment received. Specifically, for the purposes of services and supplies covered by the TDP, beneficiary liability including cost-sharing amounts or any amount above the network maximum allowable charge where the provider selected by the beneficiary is not a participating provider or a provider within an approved alternative delivery system. In cases where a nonparticipating provider does not accept assignment of benefits.

* * * * *

(14) *Nonparticipating provider.* A dentist or dental hygienist that furnished dental services to a TDP beneficiary, but who has not agreed to participate in the contractor's network and accept reimbursement in accordance with the contractor's network agreement. A nonparticipating provider looks to the beneficiary or active duty, Selected Reserve or Individual Ready Reserve member for final responsibility for payment of his or her charge, but may accept payment (assignment of benefits) directly from the insurer or assist the beneficiary in filing the claim for reimbursement by the dental plan contractor. Where the nonparticipating provider does not accept payment directly from the insurer, the insurer pays the beneficiary or active duty, Selected Reserve or Individual Ready Reserve member, not the provider.

* * * * *

(17) *Participating provider.* A dentist or dental hygienist who has agreed to participate in the contractor's network and accept reimbursement in accordance with the contractor's network agreement as the total charge (even though less than the actual billed amount), including provision for payment to the provider by the beneficiary (or active duty, Selected

Reserve or Individual Ready Reserve member) or any cost-share for covered services.

* * * * *

(20) *Preventive services.* Traditional prophylaxis including scaling deposits from teeth, polishing teeth, and topical application of fluoride to teeth, as well as other dental services authorized in paragraph (e) of this section.

* * * * *

(e) * * *

(2) * * *

(i) Diagnostic and preventive services. Benefits may be extended for those dental services described as oral examination, diagnostic, and preventive services when performed directly by dentists and dental hygienists as authorized under paragraph (f) of this section. These include the following categories of service:

* * * * *

(B) * * *

(*5*) Sealants.

* * * * *

(f) * * *

(5) *Participating provider.* An authorized provider may elect to participate as a network provider in the dental plan contractor's network and any such election will apply to all TDP beneficiaries. The authorized provider may not participate on a claim-by-claim basis. The participating provide must agree to accept, within one (1) day of a request for appointment, beneficiaries in need of emergency palliative treatment. Payment to the participating provider is based on the methodology specified in paragraph (g)(2)(ii) of this section. The fee or charge determinations are binding upon the provider in accordance with the dental plan contractor's procedures for participation in the network. Payment is made directly to the participating provider, and the participating provider may only charge the beneficiary the applicable percent cost-share of the dental plan contractor's allowable charge for those benefit categories as specified in paragraph (e) of this section, in addition to the full charges for any services not authorized as benefits.

* * * * *

(g) * * *

(2) * * *

(i) Nonparticipating providers (or the Beneficiaries or active duty, Selected Reserve or Individual Ready Reserve members for unassigned claims) shall be reimbursed at the lesser of the provider's actual charge: Or the network maximum allowable charge for similar services for that same locality (region) or state, whichever is lower, subject to the exception listed in paragraph (e)(3)(ii) of this section, less any cost-share amount due for authorized services. The network maximum allowable charge is the maximum negotiated fee between the dental contractor and any TDP participating provider for similar services covered by the dental plan in that same locality (region) or state.

* * * * *

Dated: March 2, 2016.

Morgan E. Park,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016–04983 Filed 3–4–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2016–0150]

Drawbridge Operation Regulation; Hackensack River, Jersey City, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the PATH Bridge across the Hackensack River, mile 3.0, at Jersey City, New Jersey. This deviation is necessary to allow the bridge owner to replace rails and ties at the bridge. This deviation allows the bridge to remain closed on Saturdays through Mondays for twenty-six consecutive weekends.

DATES: This deviation is effective from 12:01 a.m. on March 19, 2016 to 12:01 a.m. on September 12, 2016.

ADDRESSES: The docket for this deviation, [USCG–2016–0150] is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH''. Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Joe M. Arca, Project Officer, First Coast Guard District, telephone (212) 514–4336, email *joe.m.arca@uscg.mil.*

SUPPLEMENTARY INFORMATION: The PATH railroad bridge across the Hackensack River, mile 3.0, at Jersey City, New Jersey, has a vertical clearance in the closed position of 40 feet at mean high water and 45 feet at mean low water. The existing bridge operating regulations are found at 33 CFR 117.723.

The waterway is transited by seasonal recreational vessels and commercial vessels of various sizes.

The bridge owner, Port Authority Trans-Hudson (PATH), requested a temporary deviation from the normal operating schedule to facilitate replacement of the rails and ties at the bridge.

Under this temporary deviation, the PATH railroad bridge may remain in the closed position for twenty-six weekends, between 12:01 a.m. on Saturdays through 12:01 a.m. on Mondays from March 19, 2016 through September 12, 2016.

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

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

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

Dated: March 2, 2016.

C.J. Bisignano,

Supervisory Bridge Management Specialist, First Coast Guard District.

[FR Doc. 2016–04994 Filed 3–4–16; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2015–0592; FRL–9943–15–Region 5]

Air Plan Approval; Minnesota; Revision to Visibility Federal Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is revising the Minnesota Federal implementation plan (FIP) for visibility, to establish emission limits for Northern States Power Company's (NSP's) Sherburne County Generating Station (Sherco), pursuant to a settlement agreement. The settlement

agreement, signed by representatives of EPA, NSP, and three environmental groups, was for resolution of a lawsuit filed by the environmental groups for EPA to address any contribution from Sherco to reasonably attributable visibility impairment (RAVI) that the Department of Interior (DOI) certified was occurring at Voyageurs and Isle Royale National Parks.

DATE: This final rule is effective on April 6, 2016.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2015–0592. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone John Summerhays, Environmental Scientist, at (312) 886–6067 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: John Summerhays, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6067, *summerhays.john@epa.gov.*

SUPPLEMENTARY INFORMATION: This supplementary information section is arranged as follows:

I. What events led to a settlement agreement regarding Sherco?
II. What comments did EPA receive on its proposed action?
III. What action is EPA taking?
IV. Statutory and Executive Order Reviews.

I. What events led to a settlement agreement regarding Sherco?

Section 169A of the Clean Air Act provides for a visibility protection program and sets forth as a national goal ''the prevention of any future, and the remedying of any existing, impairment of visibility in mandatory Class I Federal areas which impairment results from manmade air pollution.'' Pursuant to these statutory requirements, EPA promulgated regulations entitled ''Visibility Protection'' in subpart P of title 40 of the Code of Federal Regulations (40 CFR), specifically in 40 CFR 51.300 *et seq.,* which include separate requirements addressing RAVI and regional haze. 45 FR 80084 (December 2, 1980).

Pursuant to these regulations, the Department of the Interior (DOI) sent EPA a letter dated October 21, 2009, certifying the existence of RAVI at Voyageurs and Isle Royale National Parks and citing modeling results from Minnesota's regional haze plan in support of a view that Sherco is a source of RAVI in these areas. After three years passed, a group of three environmental groups filed a lawsuit alleging that EPA had an obligation to evaluate whether Sherco was a source of this RAVI and if so to promulgate requirements to address this RAVI. EPA, the environmental groups, and NSP then held settlement discussions leading to a settlement agreement that became final on July 24, 2015.

In the settlement agreement, EPA agreed to propose specific emission limits, and propose to conclude that these limits addressed the concern identified by DOI, such that no need existed for any review of whether Sherco is a RAVI source or whether best available retrofit technology (BART) at Sherco is warranted for addressing RAVI. On August 11, 2015, DOI wrote to EPA regarding the settlement agreement, stating that ''the settlement achieves an outcome that addresses our visibility concerns at Voyageurs and Isle Royale National Parks.'' EPA published its notice of proposed rulemaking on October 27, 2015, at 80 FR 65675. The notice provides further details regarding the RAVI regulations, the background and history of settlement discussions for Sherco, and the limits that EPA proposed.

II. What comments did EPA receive on its proposed action?

EPA received no comments on its proposed rule, and EPA has received no new information that would warrant promulgating a rule differing in any way from the proposed rule.

III. What action is EPA taking?

EPA is promulgating the emission limits for Sherco that were identified in the settlement agreement signed on May 15, 2015, by representatives of EPA, three environmental groups, and NSP. Specifically, EPA is promulgating the following limits:

—For stack SV001, serving Units 1 and 2, a limit on SO_2 emissions of 0.050 lbs/MMBtu, as a 30-day rolling average, determined as the ratio of pounds of emissions divided by the heat input in MMBtu, both summed over 30 successive boiler-operating days, beginning on the 30-boiler-operating-day period ending September 30, 2015. For purposes of this limit, a boiler operating day is defined as a day in which fuel is combusted in either Unit 1 or Unit 2 (or both).

—For Unit 3, a limit on SO_2 of 0.29 lbs/MMBtu, as a 30-day rolling average, also determined as the ratio of pounds of emissions divided by the heat input in MMBtu, both summed over 30 successive boiler-operating days, beginning on the 30-boiler-operating-day period ending May 31, 2017.

Additionally, in light of DOI's August 11, 2015, letter, EPA is concluding that the incorporation of these SO_2 emission limits into the Minnesota visibility FIP satisfies any outstanding obligation EPA has with respect to DOI's 2009 RAVI certification. EPA intends to conduct no analysis of the magnitude or origins of visibility impairment at Voyageurs or Isle Royale or review of potential BART control options at Sherco in response to this certification.

IV. Statutory and Executive Order Reviews

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

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA. Because the FIP applies to just one facility, the Paperwork Reduction Act does not apply. *See* 5 CFR 1320.3(c).

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule. EPA's rule adds additional controls to a certain source. The Regional Haze FIP revisions that EPA is promulgating here would

impose Federal control requirements to resolve concerns that one power plant in Minnesota is unduly affecting visibility at two national parks. The power plant and its owners are not small entities. We have therefore concluded that this action will have no net regulatory burden for all directly regulated small entities.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

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

This action does not have tribal implications as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments. Thus, Executive Order 13175 does not apply to this rule. However, EPA did discuss this action in a July 16, 2015, conference call with Michigan and Minnesota tribes, and EPA invited further comment from tribes that may be interested in this action.

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

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. However, to the extent this rule will limit emissions of SO_2, the rule will have a beneficial effect on children's health by reducing air pollution.

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

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

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

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

The EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations. We have determined that this rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population.

K. Congressional Review Act (CRA)

This rule is exempt from the CRA because it is a rule of particular applicability.

L. Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 6, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: February 24, 2016.

Gina McCarthy,

Administrator.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

■ 2. Section 52.1236 is amended by adding paragraph (e) to read as follows:

§ 52.1236 Visibility protection.

* * * * *

(e)(1) On and after the 30-boiler-operating-day period ending on September 30, 2015, the owners and operators of the facility at 13999 Industrial Boulevard in Becker, Sherburne County, Minnesota, shall not cause or permit the emission of SO_2 from stack SV001 (serving Units 1 and 2) to exceed 0.050 lbs/MMBTU as a 30-day rolling average.

(2) On and after the 30-boiler-operating-day period ending on May 31, 2017, the owners and operators of the facility at 13999 Industrial Boulevard in Becker, Sherburne County, Minnesota, shall not cause or permit the emission of SO_2 from Unit 3 to exceed 0.29 lbs/MMBTU as a 30-day rolling average.

(3) The owners and operators of the facility at 13999 Industrial Boulevard in Becker, Sherburne County, Minnesota, shall operate continuous SO_2 emission monitoring systems in compliance with 40 CFR 75, and the data from this emission monitoring shall be used to determine compliance with the limits in this paragraph (e).

(4) For each boiler operating day, compliance with the 30-day average limitations in paragraphs (e)(1) and (e)(2) of this section shall be determined by summing total emissions in pounds for the period consisting of the day and the preceding 29 successive boiler operating days, summing total heat input in MMBTU for the same period, and computing the ratio of these sums in lbs/MMBTU. Boiler operating day is used to mean a 24-hour period between 12 midnight and the following midnight during which any fuel is combusted at any time in the steam-generating unit. It is not necessary for fuel to be combusted the entire 24-hour period. A boiler operating day with respect to the limitation in paragraph (e)(1) of this section shall be a day in which fuel is combusted in either Unit 1 or Unit 2. Bias adjustments provided for under 40 CFR 75 appendix A shall be applied. Substitute data provided for under 40 CFR 75 subpart D shall not be used.

[FR Doc. 2016–04751 Filed 3–4–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2014–0664; FRL–9943–33–Region 5]

Air Plan Approval; Illinois; Base Year Emission Inventories for the 2008 8-Hour Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the Illinois Environmental Protection Agency (IEPA) on September 3, 2014, to address emission inventory requirements for the Illinois portions of the Chicago-Naperville, Illinois-Indiana-Wisconsin (IL-IN-WI) and St. Louis, Missouri-Illinois (MO-IL) ozone nonattainment areas under the 2008 ozone National Ambient Air Quality Standard (NAAQS or standard). The Clean Air Act (CAA) requires emission inventories for all ozone nonattainment areas. The emission inventories contained in Illinois' September 3, 2014, submission meet this CAA requirement.

DATES: This direct final rule will be effective May 6, 2016, unless EPA receives adverse comments by April 6, 2016. If adverse comments are received by EPA, EPA 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–R05–OAR–2014–0664 at *http://www.regulations.gov* or via email to *Aburano.Douglas@epa.gov*. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, 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, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Edward Doty, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6057, *Doty.Edward@epa.gov.*

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

I. The 2008 Ozone NAAQS and Emission Inventory Requirements
II. Illinois' Emission Inventories
A. Base Year
B. How did the state develop the emission inventories?
III. EPA's Evaluation
A. Did the state adequately document the derivation of the emission estimates?
B. Did the state quality assure the emission estimates?
C. Did the state provide for public review of the requested SIP revision?
IV. Final Action
V. Statutory and Executive Order Reviews

I. The 2008 Ozone NAAQS and Emission Inventory Requirements

On March 12, 2008, EPA promulgated a revised 8-hour ozone NAAQS of 0.075 parts per million (ppm). *See* 73 FR 16436 (March 27, 2008). In 2012, EPA designated nonattainment areas for the 2008 ozone NAAQS (77 FR 30088, May 21, 2012, and 77 FR 34221, June 11, 2012). The Chicago-Naperville, IL-IN-WI and St. Louis, MO-IL areas were designated as marginal nonattainment areas for the 2008 ozone NAAQS. The Illinois portion (the Chicago area) of the Chicago-Naperville, IL-IN-WI ozone nonattainment area includes the counties of Cook, DuPage, Kane, Lake, McHenry, and Will, Aux Sable and Goose Lake Townships in Grundy County, and Oswego Township in Kendall County. The Illinois portion (the Metro-East St. Louis area) of the St. Louis, MO-IL ozone nonattainment area includes Madison, Monroe, and St. Clair Counties.

CAA sections 172(c)(3) and 182(a)(1), 42 U.S.C. 7502(c)(3) and 7511a(a)(1), require states to develop and submit, as SIP revisions, emission inventories for all areas designated as nonattainment for the ozone NAAQS. An emission inventory for ozone is an estimation of actual emissions of air pollutants that contribute to the formation of ozone in an area. Ozone is a gas that is formed by the reaction of Volatile Organic Compounds (VOC) and Oxides of Nitrogen (NO_X) in the atmosphere in the presence of sunlight (VOC and NO_X are referred to as ozone precursors). Therefore, an emission inventory for ozone covers the emissions of VOC and NO_X. VOC is emitted by many types of pollution sources, including power plants, industrial sources, on-road and off-road mobile sources, smaller stationary sources, collectively referred to as area sources, and biogenic sources.[1] NO_X is primarily emitted by combustion sources, both stationary and mobile.

The emission inventories provide emissions data for a variety of air quality planning tasks, including establishing baseline emission levels, calculating emission reduction targets needed to attain the NAAQS, determining emission inputs for ozone air quality modeling analyses, and tracking emissions over time to determine progress toward achieving air quality and emission reduction goals. As stated above, the CAA requires the states to submit emission inventories for areas designated as nonattainment for ozone. For the 2008 ozone NAAQS, EPA has recommended that states use 2011 as a base year for the emission estimates (78 FR 34178, 34190, June 6, 2013). However, EPA also allows states to submit base year emissions for other years during a recent ozone standard violation period. States are required to submit estimates of VOC and NO_X emissions for four general classes of anthropogenic sources: Stationary point sources; area sources; on-road mobile sources; and off-road mobile sources in their emission inventories.

II. Illinois' Emission Inventories

Illinois submitted a SIP revision addressing the VOC and NO_X emission inventory requirement for the Chicago and Metro-East St. Louis areas on September 3, 2014. Tables 1 and 2 summarize the 2011 VOC and NO_X emissions for these two areas for a typical summer day (reflective of the summer period, when the highest ozone concentrations are expected in these ozone nonattainment areas).

[1] Biogenic emissions are produced by living organisms and are typically not included in the base year emission inventories, but are considered in ozone modeling analyses, which must consider all emissions in a modeled area.

TABLE 1—CHICAGO AREA 2011 EMISSION INVENTORY

[Tons per day]

Source type	VOC	NO_X
Point	48.26	119.88
Area	210.04	27.13
On-Road Mobile	91.03	296.38
Off-Road Mobile	168.66	170.86
Totals	517.98	614.37

TABLE 2—METRO-EAST ST. LOUIS AREA 2011 EMISSION INVENTORY

[Tons per day]

Source Type	VOC	NO_X
Point	10.80	26.18
Area	18.12	1.24
On-Road Mobile	11.44	34.14
Off-Road Mobile	8.49	17.17
Totals	48.86	78.72

A. Base Year

As recommended by the EPA, the IEPA has selected 2011 as the base year for the submitted emission inventories.

B. How did the state develop the emission inventories?

Illinois estimated VOC (Volatile Organic Material (VOM) in the Illinois emission inventory [2]) and NO_X emissions for each Illinois county contained in (and for each township for counties partially contained in) the Chicago and Metro-East St. Louis areas. Emissions for the counties (or townships) were totaled by source category for the two ozone nonattainment areas. To develop the VOC and NO_X emission inventories, IEPA used the procedures summarized below.

The primary source of emissions data for point sources was the source-reported 2011 Annual Emission Reports (AERs) (emission statements). Under Illinois state law covering emission statement requirements at 35 Illinois Administrative Code part 254, major sources are required to report emissions annually to the state. The emissions reported to the state for 2011 were the primary source of facility-emissions, which were further divided into source category-specific emission totals by county/township.

Area source emissions were generally calculated by multiplying source category-specific emission factors by 2011 source activity levels (population, employment levels, etc.) for each county or township. In some cases, 2011 area source category emissions were projected from 2010 emissions using estimated source category-specific growth rates.

On-road mobile source emissions were estimated using EPA's Motor Vehicle Emission Simulator model and vehicle activity levels provided by the state Department of Transportation and local planning agencies.

Off-road emissions were estimated using the National Mobile Inventory Model (NMIM). These emission estimates were supplemented with emission estimates for aircraft, locomotives, and commercial marine vessels provided through contractor studies since NMIM does not cover these source types.

III. EPA's Evaluation

EPA has reviewed Illinois' September 3, 2014, requested SIP revision for consistency with CAA and EPA emission inventory requirements. In particular, EPA has reviewed the techniques used by IEPA to derive and quality assure the emission estimates. EPA has also evaluated whether Illinois provided the public with the opportunity to review and comment on the development of the emission estimates and whether IEPA addressed public comments.

A. Did the state adequately document the derivation of the emission estimates?

IEPA documented the general procedures used to estimate the emissions for each of the four major source types and for some specific source types for the off-road emissions. The documentation of the emission estimation procedures was adequate for us to determine that Illinois followed acceptable procedures to estimate the emissions.

B. Did the state quality assure the emission estimates?

Illinois developed a quality assurance plan and followed this plan during various phases of the emissions estimation and documentation process to quality assure the emissions for completeness and accuracy. These quality assurance procedures are summarized in the documentation describing how the emissions totals were developed. We have determined that the quality assurance procedures followed by Illinois are adequate and acceptable and that Illinois has developed inventories of VOC and NO_X emissions that are comprehensive and complete.

C. Did the state provide for public review of the requested SIP revision?

IEPA notified the public of the opportunity for comment both in newspapers and on IEPA's Web site. No comments were received on the emission inventories and no public hearing was requested.

IV. Final Action

We are approving the Illinois SIP revision submitted to address the emission inventory requirements for the Chicago and Metro-East St. Louis areas for the 2008 ozone NAAQS. The emission inventories we are approving into the SIP are specified in Tables 1 and 2 above. We are approving the emission inventories because they contain comprehensive, accurate, and current inventories of actual emissions for all relevant sources in accordance with CAA sections 172(c)(3) and 182(a)(1) and because Illinois adopted the emission inventories after providing for reasonable public notice and the opportunity for public hearings.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective May 6, 2016 without further notice unless we receive relevant adverse written comments by April 6, 2016. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that, if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective May 6, 2016.

[2] VOM as defined at 35 Illinois Administrative Code section 211.7150 is identical to EPA's definition of VOC at 40 CFR 51.100(s). The terms VOC and VOM are interchangeable, and refer to the same compounds. We use VOC here to remain consistent with EPA's standard practice to refer to VOC as an ozone precursor.

V. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 6, 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 22, 2016.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

■ 2. Section 52.726 is amended by adding paragraph (pp) to read as follows:

§ 52.726 Control strategy: Ozone.

* * * * *

(pp) On September 3, 2014, Illinois submitted 2011 volatile organic compounds and oxides of nitrogen emission inventories for the Illinois portions of the Chicago-Naperville, Illinois-Indiana-Wisconsin and St. Louis, Missouri-Illinois nonattainment areas for the 2008 ozone national ambient air quality standard as a revision of the Illinois state implementation plan. The emission inventories are approved as a revision of the state's implementation plan.

[FR Doc. 2016–04879 Filed 3–4–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2014–0860; FRL 9943–31–Region 5]

Air Plan Approval; Wisconsin; Base Year Emission Inventories for the 2008 8-Hour Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the Wisconsin Department of Natural Resources (WDNR) on November 14, 2014, to address emission inventory requirements for the Sheboygan nonattainment area (Sheboygan area) and the Wisconsin portion (Kenosha area) of the Chicago-Naperville, Illinois-Indiana-Wisconsin (Chicago-Naperville, IL-IN-WI) nonattainment area under the 2008 ozone National Ambient Air Quality Standard (NAAQS or standard). The Clean Air Act (CAA) requires emission inventories for all ozone nonattainment areas. The emission inventories contained in Wisconsin's November 14, 2014, submission meet this CAA requirement.

DATES: This direct final rule is effective on May 6, 2016, unless the EPA receives

adverse comments by April 6, 2016. If adverse comments are received by EPA, EPA 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–R05–OAR–2014–0860 at *http://www.regulations.gov* or via email to *Aburano.Douglas@epa.gov.* For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, 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, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Edward Doty, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6057, *Doty.Edward@epa.gov.*

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

I. The 2008 Ozone NAAQS and Emission Inventory Requirements
II. Wisconsin's Emission Inventories
A. Base Year
B. How did the State develop the emission inventories?
III. EPA's Evaluation
A. Did the State adequately document the derivation of the emission estimates?
B. Did the State quality assure the emission estimates?
C. Did the State provide for public review of the requested SIP revision?
IV. Final Action
V. Statutory and Executive Order Reviews

I. The 2008 Ozone NAAQS and Emission Inventory Requirements

On March 12, 2008, EPA promulgated a revised 8-hour ozone NAAQS of 0.075 parts per million (ppm). *See* 73 FR 16436 (March 27, 2008). The Sheboygan and Kenosha areas were designated as marginal nonattainment areas for the 2008 ozone NAAQS. *See* 77 FR 30088 (May 21, 2012) and 77 FR 34221 (June 11, 2012). The Sheboygan area is Sheboygan County. The Kenosha area is the portion of Kenosha County bounded by the Illinois/Wisconsin border (Kenosha County border) on the south, Lake Michigan on the east, the Kenosha County/Racine County border on the north, and the Interstate 94 (I–94) corridor (including all of the I–94 corridor) on the west. Both of these areas are classified as marginal nonattainment for the 2008 ozone standard.

CAA sections 172(c)(3) and 182(a)(1), 42 U.S.C. 7502(c)(3) and 7511a(a)(1), require states to develop and submit, as SIP revisions, emission inventories for all areas designated as nonattainment for the ozone NAAQS. An emission inventory for ozone is an estimation of actual emissions of air pollutants that contribute to the formation of ozone in an area. Ozone is a gas that is formed by the reaction of Volatile Organic Compounds (VOC) and Oxides of Nitrogen (NO_X) in the atmosphere in the presence of sunlight. VOC and NO_X are referred to as ozone precursors. Therefore, an emission inventory for ozone focuses on the emissions of VOC and NO_X. VOC is emitted by many types of pollution sources, including power plants, industrial sources, on-road and off-road mobile sources, smaller stationary sources, collectively referred to as area sources, and biogenic sources.[1] NO_X is primarily emitted by combustion sources, both stationary and mobile.

The emission inventories provide emissions data for a variety of air quality planning tasks, including establishing baseline emission levels for anthropogenic (manmade) emissions associated with ozone standard violations, calculating emission reduction targets needed to attain the NAAQS and achieving reasonable further progress toward attainment of the ozone standard (not required in the areas considered here), determining emission inputs for ozone air quality modeling analyses, and tracking emissions over time to determine progress toward achieving air quality and emission reduction goals. As stated above, the CAA requires the states to submit emission inventories for areas designated as nonattainment for ozone. For the 2008 ozone NAAQS, EPA has recommended that states submit typical summer day emission estimates for 2011 (78 FR 34178, 34190, June 6, 2013). However, EPA also allows states to submit base year emissions for other years during a recent ozone standard violation period. States are required to submit estimates of VOC and NO_X emissions for four general classes of anthropogenic sources: Stationary point sources; area sources; on-road mobile sources; and off-road mobile sources. The base year emission inventories must be submitted for ozone nonattainment within two years after EPA designates nonattainment areas for a new ozone standard.

II. Wisconsin's Emission Inventories

Tables 1 and 2 summarize the 2011 VOC and NO_X emissions in the Wisconsin ozone nonattainment areas for a typical summer day.[2]

TABLE 1—SHEBOYGAN COUNTY 2011 EMISSION INVENTORY

[Tons per day]

Source type	VOC	NO_X
Point	2.63	11.73
Area	7.35	1.35
On-Road Mobile	2.49	5.18

[1] Biogenic emissions are produced by living organisms and are typically not included in the base year emission inventories, but are considered in ozone modeling analyses, which must consider all emissions in a modeled area.

[2] The highest ozone concentrations are typically monitored during the summer months and, in Wisconsin, ozone standard exceedances are typically monitored during the months of July through September.

TABLE 1—SHEBOYGAN COUNTY 2011 EMISSION INVENTORY—Continued

[Tons per day]

Source type	VOC	NO_X
Off-Road Mobile	4.36	3.26
Totals	16.83	21.52

TABLE 2—KENOSHA AREA 2011 EMISSION INVENTORY

[Tons per day]

Source type	VOC	NO_X
Point	0.70	8.80
Area	4.78	1.09
On-Road Mobile	2.14	4.67
Off-Road Mobile	2.42	2.33
Totals	10.04	16.89

A. Base Year

WDNR chose 2011 as the base year for these emission inventories, as recommended by EPA.

B. How did the State develop the emission inventories?

The point source NO_X and VOC emissions were derived from facility-reported emissions for 2011. Wisconsin requires major source facilities to report emissions annually. WDNR used seasonal process-level source activity information contained in the annual emission reports along with emission control information to calculate both the summer day emissions and the annual emissions for each facility. The source location and emissions data contained in the facility emission reports were used to determine the emissions specific to the Sheboygan and Kenosha areas.

The 2011 area source emissions were derived using the 2011 National Emissions Inventory (NEI), version 2, emission estimates for Sheboygan and Kenosha Counties. The area source emissions data have been derived for each appropriate Source Classification Code (SCC) covered by the NEI for Sheboygan and Kenosha Counties. The WDNR used various source surrogate data, such as population, land use data, and employment source sector or SCC, to allocate the area source emissions to the nonattainment portion of Kenosha County. The emission inventory documentation contained in Appendix 5 of Wisconsin's submittal includes documentation explaining how the emissions were derived for each area source type.

On-road mobile source emissions were determined using EPA's Motor Vehicle Emission Simulator (MOVES), version MOVES2010b, Vehicle Miles Traveled (VMT) and other vehicle class-specific data supplied by the Southeastern Wisconsin Regional Planning Commission (SEWRPC), the Bay-Lake Regional Planning Commission (BLRPC), the metropolitan planning organizations that cover the two ozone nonattainment areas, and the Wisconsin Department of Transportation.

Non-road mobile source emissions were derived by dividing the various area source types into two groups: (1) Commercial marine vessels, aircraft, and railroads (collectively referred to as MAR); and (2) all other non-road source types. For the aircraft and railroad components of the MAR, the WDNR relied on the emissions for these source types contained in EPA's 2011 NEI, version 1. For commercial marine vessel emissions, the WDNR used emissions derived by the Lake Michigan Air Directors Consortium (LADCO), but used the county-specific commercial marine vessel emissions in the 2011 NEI to allocate the LADCO-supplied commercial marine vessel emissions to the Sheboygan and Kenosha ozone nonattainment areas. For the non-MAR area source emissions, the WDNR used the National Mobile Inventory Model (NMIM) to generate annual and summer day NO_X and VOC emissions for each non-road mobile source type.

To quality assure (QA) and quality check (QC) the emission estimates, the WDNR developed a quality assurance plan. This plan was applied for each source category and source type to ensure accuracy, completeness, comparability, and representativeness of the estimated emissions. One of the major quality assurance procedures employed was the comparison of the calculated emissions to emissions data contained in the 2011 NEI.

III. EPA's Evaluation

EPA has reviewed Wisconsin's November 14, 2014, requested SIP revision for consistency with CAA and EPA emission inventory requirements. In particular, EPA has reviewed the techniques used by the WDNR to derive and quality assure the emission estimates. EPA has also determined whether Wisconsin has provided the public with the opportunity to review and comment on the development of the emission estimates and whether the State has addressed all public comments.

A. Did the State adequately document the derivation of the emission estimates?

The State documented the general procedures used to estimate the emissions for each of the major source types. The documentation of the emission estimation procedures is adequate for us to determine that Wisconsin followed acceptable procedures to estimate the emissions.

B. Did the State quality assure the emission estimates?

As noted above, WDNR developed a quality assurance plan and followed this plan during various phases of the emissions estimation and documentation process to QA and QC the emissions for completeness and accuracy. The quality assurance procedures have been determined to be adequate and acceptable. We conclude that Wisconsin has developed inventories of VOC and NO_X emissions that are comprehensive and complete.

C. Did the State provide for public review of the requested SIP revision?

WDNR notified the public of the opportunity for comment both in newspapers and on the WDNR Web site. A public hearing was held on September 25, 2014, and WDNR provided for the review of written comments received outside of the public hearing. The only comments received were those from EPA, and WDNR addressed those comments through revisions reflected in the final emission inventories and associated documentation.

IV. Final Action

We are approving a Wisconsin SIP revision submitted to address the ozone-related emission inventory requirements for the Sheboygan and Kenosha areas for the 2008 ozone NAAQS. The emission inventories we are approving into the SIP are specified in Tables 1 and 2 above. We are approving the emission inventories because they contain comprehensive, accurate, and current inventories of actual emissions for all relevant VOC and NO_X sources in accordance with CAA sections 172(c)(3) and 182(a) and because Wisconsin adopted the emission inventories after providing for reasonable public notice and a public hearing.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule is effective on May 6, 2016 without further notice unless we receive relevant adverse written comments by April 6, 2016. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document withdrawing the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective May 6, 2016.

V. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 6, 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 it shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 22, 2016.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

■ 2. Section 52.2585 is amended by adding paragraph (dd) to read as follows:

§ 52.2585 Control strategy: Ozone.

* * * * *

(dd) On November 14, 2014, Wisconsin submitted 2011 volatile organic compounds and oxides of nitrogen emission inventories for the Sheboygan County and Wisconsin portion (Kenosha area) of the Chicago-Naperville, Illinois-Indiana-Wisconsin nonattainment areas for the 2008 ozone national ambient air quality standard as a revision of the Wisconsin state implementation plan. The documented emission inventories are approved as a revision of the State's implementation plan.

[FR Doc. 2016–04897 Filed 3–4–16; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 81, No. 44
Monday, March 7, 2016

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

[Doc. No. AMS–FV–14–0069; FV–14–989–2 PR]

Raisins Produced From Grapes Grown in California; Proposed Amendments to Marketing Order 989 and Referendum Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule and referendum order.

SUMMARY: This rule proposes two amendments to Marketing Order No. 989 (order), which regulates the handling of raisins produced from grapes grown in California and provides producers with the opportunity to vote in a referendum to determine if they favor the changes. These amendments were proposed by the Raisin Administrative Committee (Committee), which is responsible for the local administration of the order and is comprised of producers and handlers of raisins operating within the production area. These proposed amendments are intended to improve administration of the order and reflect current industry practices.

DATES: The referendum will be conducted from March 9, 2016, through March 23, 2016. The representative period for the purpose of the referendum is August 1, 2014, through July 31, 2015.

ADDRESSES: Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., Stop 0237, Washington, DC 20250–0237.

FOR FURTHER INFORMATION CONTACT: Geronimo Quinones, Marketing Specialist, or Michelle P. Sharrow, Rulemaking Branch Chief, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., Stop 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Geronimo.Quinones@ams.usda.gov* or *Michelle.Sharrow@ams.usda.gov.*

Small businesses may request information on complying with this regulation by contacting Antoinette Carter, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Antoinette.carter@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This proposal is issued under Marketing Order No. 989, as amended (7 CFR part 989), regulating the handling of raisins produced from grapes grown in California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Orders 12866, 13563, and 13175.

This proposal has been reviewed under Executive Order 12988, Civil Justice Reform. This proposal is not intended to have retroactive effect.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

Section 1504 of the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill)(Pub. L. 110–246) amended section 18c(17) of the Act, which in turn required the addition of supplemental rules of practice to 7 CFR part 900 (73 FR 49307; August 21, 2008). The additional supplemental rules of practice authorize the use of informal rulemaking (5 U.S.C. 553) to amend Federal fruit, vegetable, and nut marketing agreements and orders. USDA may use informal rulemaking to amend marketing orders based on the nature and complexity of the proposed amendments, the potential regulatory and economic impacts on affected entities, and any other relevant matters.

AMS has considered these factors and has determined that the amendment proposals are not unduly complex and the nature of the proposed amendments is appropriate for utilizing the informal rulemaking process to amend the order.

The proposed amendments were unanimously recommended by the Committee following deliberations at a public meeting held on October 2, 2014.

A proposed rule soliciting comments on the proposed amendments was issued on October 15, 2015, and published in the **Federal Register** on October 16, 2015 (80 FR 62506). Two comments were received. One comment was in support of the amendments. The second comment asked questions about one of the proposals. These comments will be addressed later in this document. AMS will conduct a producer referendum to determine support for the proposed amendments. If appropriate, a final rule will then be issued to effectuate the amendments favored by producers in the referendum.

The Committee's proposed amendments would amend the order by: (1) Authorizing the Committee to borrow from a commercial lending institution during times of cash shortage to help ensure continuity of operations during the first half of the year before assessment income is received, and (2) Establishing a monetary reserve equal to one year's budgeted expenses.

Proposal #1—Borrowing From a Commercial Lending Institution

Section 989.80 of the order, Assessments, authorizes the Committee to collect assessments from handlers to administer the program.

This proposal would provide the Committee with authority to borrow from a commercial lending institution during times of cash shortages. Since inception of the marketing order, the Committee has occasionally used the order's volume regulation provisions to pool a portion of the annual raisin crop

to assure orderly marketing. These pooled raisins, designated by the Committee as reserve raisins, were sold and released to handlers throughout the crop year. In managing the pooled raisins for the best return to growers, the Committee pooled the cash received from the handlers until equity payments were distributed to the growers. The Committee borrowed funds (with interest) from this reserve raisin pool during times of assessment shortages to temporarily cover expenses, generally during the early part of the new crop year.

Volume regulation has not been in effect under the marketing order since 2010, and the Committee has been returning equity payments to the growers who contributed raisins to the 2009 reserve raisin pool. Therefore, funds from the reserve raisin pool are no longer available for the Committee to use during times of cash shortages. The Committee's proposed amendment to the order would allow it to borrow from a commercial lending institution when no other funding is available. This would assist the Committee in bridging finances from the end of one fiscal year through the first quarter of the new fiscal year, before assessments on the new crop are received.

Additionally, the Committee has received grants from the Foreign Agricultural Service's (FAS) Market Access Program (MAP) since 1995 to conduct market expansion and development activities in various international markets. Under MAP, participants must first use their own resources for activities and request reimbursement from FAS. Sometimes there is a time-lag between submission of reimbursement requests and receipt of payments, which causes budgeting issues. Having authority to borrow from a commercial lending institution would help to ensure continuity of operations when this occurs.

Therefore, for the reasons stated above, it is proposed that § 989.80, Assessments, be amended by adding a sentence in paragraph (c) that would provide the Committee with authority to borrow from a commercial lending institution.

Proposal #2—Establish a Monetary Reserve Fund Equal to One Year's Budgeted Expenses

Section 989.81 of the order, Accounting, authorizes the Committee to credit or refund unexpended assessment funds from the crop year back to the handlers from whom they were collected. Currently, the order doesn't allow the Committee to retain handler assessments from prior crop years.

This proposal would allow the Committee to establish a monetary reserve equal to one year's operational expenses as averaged over the past six years. Reserve funds could be used for specific administrative and overhead expenses such as staff wages, salaries and related benefits, office rent, utilities, postage, insurance, legal expenses, and audit costs; to cover deficits incurred during any period when assessment income is less than expenses; to defray expenses incurred during any period when any or all provisions of the order are suspended; liquidation of the order; and other expenses recommended by the Committee and approved by the Secretary. Reserve funds could not be used for promotional expenses during any crop year prior to the time that assessment income is sufficient to cover such expenses.

As previously stated in Proposal #1, the Committee borrowed cash from the reserve raisin pool and repaid it with interest when handler assessment cash shortages occurred in the past. This practice helped the Committee to bridge finances from one fiscal crop year to the next until assessment income for the new crop year was received. This option is no longer available.

For the reasons stated above, it is proposed that § 989.81, Accounting, be amended to allow the Committee to retain excess assessment funds for the purpose of establishing a monetary reserve equal to one year's budgeted expenses as averaged over the past six years. Such excess funds could only be used for specific administrative and operational expenses as outlined in the order.

Final Regulatory Flexibility Analysis

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 3,000 producers of California raisins and approximately 28 handlers subject to regulation under the marketing order. The Small Business Administration defines small agricultural producers as those having annual receipts of less than $750,000 and defines small agricultural service firms as those whose annual receipts are less than $7,000,000 (13 CFR 121.201).

Based upon information provided by the Committee, it may be concluded that a majority of producers and approximately 18 handlers of California raisins may be classified as small entities.

The amendments proposed by the Committee would authorize the Committee to borrow from commercial lending institutions and to establish a monetary reserve fund equal to one year's budgeted expenses. This would help to ensure proper management and funding of the program.

The Committee reviewed and identified a yearly budget that would be necessary to continue program operations in the absence of a reserve pool. Based on this budget, the Committee believes a monetary reserve of approximately $2 million would be sufficient to continue operations. The anticipated $2 million to be accumulated in a monetary reserve would not be accrued in one crop year. It would be spread over several years, depending on expenses, assessment revenue, and excess handler assessments accrued in each crop year. For example: If excess annual handler assessments amount to $400,000, it would take five years to accrue $2 million. Currently, the average excess handler assessments paid yearly over the last six years has been $861,622. During the time in which the monetary reserve fund would be accumulated, the Committee would seek funding from a commercial lending institution as previously explained in Proposal #1.

While this action would result in a temporary increase in handler costs, these costs would be uniform on all handlers and proportional to the size of their businesses. However, these costs are expected to be offset by the benefits derived from operation of the order. Additionally, these costs would help to ensure that the Committee has sufficient funds to meet its financial obligations. Such stability is expected to allow the Committee to conduct programs that would benefit all entities, regardless of size. California raisin producers should see an improved business environment and a more sustainable business model because of the improved business efficiency.

Alternatives were considered to these proposals, including making no changes at this time. However, the Committee

believes it would be beneficial to have the means and funds necessary to effectively administer the program.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/rules-regulations/moa/small-businesses.* Any questions about the compliance guide should be sent to Antoinette Carter at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0178, ''Vegetable and Specialty Crops.'' No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

These proposed amendments would impose no additional reporting or recordkeeping requirements on either small or large California raisin handlers.

As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

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

The Committee's meeting was widely publicized throughout the California raisin production area. All interested persons were invited to attend the meeting and encouraged to participate in Committee deliberations on all issues. Like all Committee meetings, the October 2, 2014, meeting was public, and all entities, both large and small, were encouraged to express their views on these proposals.

A proposed rule concerning this action was published in the **Federal Register** on October 16, 2015 (80 FR 62506). Copies of the rule were mailed or sent via facsimile to all Committee members. Finally, the rule was made available through the internet by USDA and the Office of the Federal Register. A 60-day comment period ending December 15, 2015, was provided to allow interested persons to respond to the proposal.

Two comments were received. One comment was in support of the proposal. The second comment stated that the term ''commercial lending institution'' is vague and asked for the name of the institution and clarification regarding what constitutes a shortage. The comment also stated that the lending arrangement should be discussed openly. To clarify, as used in this proposal, a shortage would exist when the Committee's cash flow needs exceed the amount of cash available from handler assessments. Regarding open discussion, the Committee establishes a budget and assessment rate annually in meetings that are open to the public. During these meetings, the Committee would discuss any shortages and any available commercial lending opportunities. No changes have been made to the proposed amendments as a result of the comments received.

Findings and Conclusions

The findings and conclusions and general findings and determinations included in the proposed rule set forth in the October 16, 2015, issue of the **Federal Register** are hereby approved and adopted.

Marketing Order

Annexed hereto and made a part hereof is the document entitled ''Order Amending the Order Regulating the Handling of Raisins Produced from Grapes Grown in California.'' This document has been decided upon as the detailed and appropriate means of effectuating the foregoing findings and conclusions. It is hereby ordered, that this entire rule be published in the **Federal Register**.

Referendum Order

It is hereby directed that a referendum be conducted in accordance with the procedure for the conduct of referenda (7 CFR part 900.400–407) to determine whether the annexed order amending the order regulating the handling of Raisins Produced from Grapes Grown in California is approved by growers, as defined under the terms of the order, who during a representative period were engaged in the production of raisins in the production area. The representative period for the conduct of such referendum is hereby determined to be August 1, 2014, through July 31, 2015.

The agents of the Secretary to conduct such referendum are designated to be Maria Stobbe and Andrea Ricci, California Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (559) 487–5901, or Email: *Maria.Stobbe@ams.usda.gov* or *Andrea.Ricci@ams.usda.gov,* respectively.

List of Subjects in 7 CFR Part 989

Raisins, Marketing agreements, Reporting and recordkeeping requirements.

Dated: February 26, 2016.

Elanor Starmer,

Acting Administrator, Agricultural Marketing Service.

Order Amending the Order Regulating the Handling of Raisins Produced From Grapes Grown in California [1] Findings and Determinations

The findings hereinafter set forth are supplementary to the findings and determinations which were previously made in connection with the issuance of the marketing order; and all said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

1. The marketing order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof, would tend to effectuate the declared policy of the Act;

2. The marketing order, as amended, and as hereby proposed to be further amended, regulates the handling of raisins produced from grapes grown in California in the same manner as, and are applicable only to, persons in the respective classes of commercial and industrial activity specified in the marketing order;

3. The marketing order, as amended, and as hereby proposed to be further amended, is limited in application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the Act;

4. The marketing order, as amended, and as hereby proposed to be further amended, prescribe, insofar as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of raisins produced in the production area; and

5. All handling of raisins produced in the production area as defined in the

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

marketing order is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Order Relative to Handling

It is therefore ordered, that on and after the effective date hereof, all handling of raisins produced from grapes grown in California shall be in conformity to, and in compliance with, the terms and conditions of the said order as hereby proposed to be amended as follows:

The provisions of the proposed marketing order amending the order contained in the proposed rule issued by the Administrator on October 15, 2015, and published in the **Federal Register** (80 FR 62506) on October 16, 2015, will be and are the terms and provisions of this order amending the order and are set forth in full herein.

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

■ 1. The authority citation for 7 CFR part 989 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Revise paragraph (c) of § 989.80 to read as follows:

§ 989.80 Assessments.

* * * * *

(c) During any crop year or any portion of a crop year for which volume percentages are not effective for a varietal type, all standard raisins of that varietal type acquired by handlers during such period shall be free tonnage for purposes of levying assessments pursuant to this section. The Secretary shall fix the rate of assessment to be paid by all handlers on the basis of a specified rate per ton. At any time during or after a crop year, the Secretary may increase the rate of assessment to obtain sufficient funds to cover any later finding by the Secretary relative to the expenses of the committee. Each handler shall pay such additional assessment to the committee upon demand. In order to provide funds to carry out the functions of the committee, the committee may accept advance payments from any handler to be credited toward such assessments as may be levied pursuant to this section against such handler during the crop year. In the event cash flow needs of the committee are above cash available generated by handler assessments, the committee may borrow from a commercial lending institution. The payment of assessments for the maintenance and functioning of the committee, and for such purposes as the Secretary may pursuant to this subpart determine to be appropriate, may be required under this part throughout the period it is in effect, irrespective of whether particular provisions thereof are suspended or become inoperative.

* * * * *

■ 3. Revise paragraph (a) of § 989.81 to read as follows:

§ 989.81 Accounting.

(a) If, at the end of the crop year, the assessments collected are in excess of expenses incurred, such excess shall be accounted for in accordance with one of the following:

(1) If such excess is not retained in a reserve, as provided in paragraph (a)(2) of this section, it shall be refunded proportionately to the persons from whom collected in accordance with § 989.80; *Provided,* That any sum paid by a person in excess of his or her pro rata share of expenses during any crop year may be applied by the committee at the end of such crop year as credit for such person, toward the committee's administrative operations for the following crop year; *Provided further,* That the committee may credit the excess to any outstanding obligations due the committee from such person.

(2) The committee may carry over such excess funds into subsequent crop years as a reserve; *Provided,* That funds already in the reserve do not exceed one crop year's budgeted expenses as averaged over the past six years. In the event that funds exceed one crop year's expenses, funds in excess of one crop year's budgeted expenses shall be distributed in accordance with paragraph (1) above. Such funds may be used:

(i) To defray essential administrative expenses (*i.e.,* staff wages/salaries and related benefits, office rent, utilities, postage, insurance, legal expenses, audit costs, consulting, Web site operation and maintenance, office supplies, repairs and maintenance, equipment leases, domestic staff travel and committee mileage reimbursement, international committee travel, international staff travel, bank charges, computer software and programming, costs of compliance activities, and other similar essential administrative expenses) exclusive of promotional expenses during any crop year, prior to the time assessment income is sufficient to cover such expenses;

(ii) To cover deficits incurred during any period when assessment income is less than expenses;

(iii) To defray expenses incurred during any period when any or all provisions of this part are suspended;

(iv) To meet any other such expenses recommended by the committee and approved by the Secretary; and

(v) To cover the necessary expenses of liquidation in the event of termination of this part. Upon such termination, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate; *Provided,* That to the extent practicable, such funds shall be returned pro rata to the persons from whom such funds were collected.

* * * * *

[FR Doc. 2016–04623 Filed 3–4–16; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50, 52, 54, and 100

[Docket Nos. PRM–50–106; NRC–2012–0177]

Environmental Qualification of Electrical Equipment

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; denial.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is denying a petition for rulemaking (PRM) submitted by the Natural Resources Defense Council, Inc. (NRDC), and Mr. Paul M. Blanch (collectively, the petitioners) on June 18, 2012. The petitioners requested that the NRC amend its regulations to clearly and unequivocally require the environmental qualification of all safety-related cables, wires, splices, connections and other ancillary electrical equipment that may be subjected to submergence and/or moisture intrusion during normal operating conditions, severe weather, seasonal flooding, and seismic events, and post-accident conditions, both inside and outside of a reactor's containment building. The NRC is denying this petition because the current regulations already address environmental qualification in both mild and design basis event conditions of electrical equipment located both inside and outside of the containment building that is important to safety, and the petition does not provide significant new or previously unconsidered information sufficient to justify rulemaking.

DATES: The docket for the petition for rulemaking, PRM–50–106, is closed on March 7, 2016.

ADDRESSES: Please refer to Docket ID NRC–2012–0177 when contacting the NRC about the availability of information regarding this petition. You may obtain publicly-available information related to the petition by using any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0177. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* 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.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Margaret Ellenson, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–0894; email: *Margaret.Ellenson@nrc.gov.*

SUPPLEMENTARY INFORMATION:

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I. The Petition
II. NRC Analysis
III. Determination of Petition

I. The Petition

On June 18, 2012, the NRC received a petition for rulemaking filed jointly by the NRDC and Mr. Paul Blanch (ADAMS Accession No. ML12177A377). The petitioners requested that the NRC amend its regulations in parts 50, 52, 54, and 100 of title 10 of the *Code of Federal Regulations* (10 CFR) to clearly and unequivocally require the environmental qualification of all safety-related cables, wires, splices, connections and other ancillary electrical equipment that may be subjected to submergence and/or moisture intrusion during normal operating conditions, severe weather, seasonal flooding, and seismic events, and post-accident conditions, both inside and outside of a reactor's containment building.

The petition was docketed by the NRC on June 22, 2012, and was assigned Docket No. PRM–50–106. On September 27, 2012 (77 FR 59345), the NRC published a notice of receipt in the **Federal Register**. The NRC did not request public comment on PRM–50–106.

II. NRC Analysis

The petitioners raised three issues in support of their request that the NRC amend the regulations related to environmental qualification of electrical equipment at nuclear power plants. The three issues and the NRC's responses to each issue are presented in this section.

Issue 1: Through the issuance of Generic Letter (GL) 82–09, ''Environmental Qualification of Safety-Related Electrical Equipment,'' dated April 20, 1982 (ADAMS Accession No. ML031080281), the NRC staff limited the scope of § 50.49 based on the location of the electrical equipment.

The petitioners stated that as a result of the accident at Three Mile Island, the NRC strengthened the regulatory requirements for electrical equipment by, among other things, revising § 50.49(e) to add paragraph (6) to address the possibility of electrical equipment submergence. The petitioners asserted that § 50.49(e)(6), as written, did not limit or restrict its applicability based upon the location of the equipment, but that the NRC staff limited this applicability through a question and answer (Q&A) set in GL 82–09:

Q. For equipment qualification purposes, what are the staff requirements concerning submergence of equipment outside containment?

A. The staff requires that the licensee submit documentation on the qualification of safety-related equipment that could be submerged due to a high energy line break outside containment.

The petitioners asserted that the problem with this excerpt from GL 82–09 is that safety-related cables and wires outside containment are routinely submerged in water not only during high energy line breaks (HELBs), but also during a reactor's normal operation. The petitioners argued that the 1979 Three Mile Island accident and laboratory testing have shown that moisture intrusion and submergence of electrical cables and wires significantly increase the probability of failure, which also causes the failure of connected components such as emergency core cooling system motors and pumps, valves, controls, and instrumentation. The petitioners asserted that the safety implications from the failure of a safety-related cable inside containment submerged by an accident, outside containment submerged by a high energy line break, or outside containment submerged by nature, are identical—the safety function is lost.

NRC Response to Issue 1: The regulations at § 50.49, ''Environmental qualification of electric equipment important to safety for nuclear power plants,'' are applicable to electrical equipment located outside containment as well as inside. The January 21, 1983, **Federal Register** notice of the final § 50.49 rule (48 FR 2730) made this clear by noting that nuclear power plant equipment important to safety must be able to perform its safety functions throughout its installed life, and that this requirement applies to equipment inside as well as outside containment. (*See* 48 FR 2731.) The Q&A referenced by the petitioners is itself premised on the applicability of § 50.49 to important to safety electrical equipment outside of containment. Regardless of its location inside or outside containment, if any important to safety electrical equipment is near enough to a high energy line (*e.g.,* steam line, feedwater, blow-down, charging, or letdown lines) that the equipment's performance could be adversely affected by a rupture of that line, § 50.49 requires that the equipment be qualified to withstand any environmental conditions that may result from such an event. Section 50.49 was established to impose additional requirements beyond those established by § 50.65, ''Requirements for monitoring the effectiveness of maintenance at nuclear power plants;'' 10 CFR part 50, appendix A, ''General Design Criteria [GDC] For Nuclear Power Plants;'' [1] and 10 CFR part 50, appendix B, ''Quality Assurance Criteria for Nuclear Power Plants and Fuel Processing Plants.'' The additional requirements in § 50.49 apply to important to safety electrical equipment that could be subject to postulated design basis events (DBEs) that could affect: (1) The integrity of the reactor coolant pressure boundary; (2) the capability to shut the reactor down safely and keep it safe; or (3) the capability to prevent or mitigate accidents that could result in potential

[1] The GDC pertains to water cooled nuclear plants and establishes the minimum requirements for their principal design criteria (36 FR 3256; February 20, 1971, as amended).

offsite exposures comparable to NRC emergency planning guidelines. As the cited GL 82–09 Q&A indicates, a HELB was the most probable such DBE involving submergence outside of containment for which the NRC staff believed that a power reactor's important to safety electrical equipment must be environmentally qualified.

The NRC agrees with the petitioners that safety-related cables and other electrical equipment must be fully able to function, not only within an operating environment affected by a HELB under § 50.49, but also over the entire length of its system, even those portions not exposed to a HELB. Criterion 18 of 10 CFR part 50, appendix A, requires that electric power systems important to safety be designed so that important areas and features permit appropriate periodic inspection and testing. Example areas and features specified are the following: wiring, insulation, connections, and switchboards. Criterion 18 also requires the systems to be designed with a capability to test periodically the operability and functional performance of the components of the systems and the operability of the system as a whole.

As the petitioners rightly point out, designing the entirety of an electrical safety system for inspectability and testability is essential because ''[i]t matters little if the portion of a safety-related cable inside [or] outside containment in a high energy line break area survive[s] if another portion of that same cable routed underground fails due to submergence.'' It is also important to note that the NRC's design and qualification requirements for underground or inaccessible wires, cables, and ancillary equipment are inspected and enforced. The NRC's inspection procedures direct that inspections of electrical equipment at risk of flooding or exposure to moisture be conducted annually.

The NRC disagrees with the petitioners' assertion that GL 82–09 has restricted the applicability of § 50.49 regulatory requirements for safety-related equipment according to its location. Generic letters do not have the legal authority of a final rule promulgated after due public notice and comment, as was § 50.49. The Q&A in GL 82–09 does not exempt any safety-related equipment that could be submerged, inside or outside containment, from the environmental qualifications (EQ) requirements of § 50.49. The purpose of the GL 82–09 Q&A cited by the petitioners was simply to clarify that under § 50.49, licensees must submit information on the EQ of important to safety equipment that could be submerged due to a high energy line break outside containment. The applicability of § 50.49 is not limited to a HELB, although after more than 30 years of operating experience and risk analysis, a HELB remains the most probable DBE involving submergence outside containment that meets the § 50.49 criteria for the subset of DBEs that could result in a severe accident. The clarifying Q&A was important because the GL was providing information in the event of a HELB, not describing the entire universe of postulated DBEs to which § 50.49 could apply.

Issue 2: Safety-related cable subject to submergence, condensation, or moisture located in a ''mild environment'' should not be exempted from the environmental qualification requirements of § 50.49.

The petitioners argued that rulemaking is necessary to ensure that electrical cables and wires will be properly qualified for environmental conditions they may experience during normal operation (*i.e.,* a mild environment) as well as in an accident. The petitioners claimed the need for rulemaking and clarification of § 50.49 to address cables that may be exposed to non-mild environments during normal, abnormal, and accident conditions. The petitioners noted that electrical cables and wires ''are prone to accelerated failure rates when submerged in water or exposed to high humidity unless designed and qualified for these environmental conditions.'' The petitioners stated that the NRC prioritized the inspection of cable penetrations after the 1979 Three Mile Island accident based on the probability of their impairment, mostly due to submergence and moisture. The petitioners argued that ''[i]f these conditions cause a high probability of impairment following an accident, then it is logical to assume that these conditions produce a similar outcome in the absence of or prior to an accident as well.'' In support of their case for a rulemaking to address this impairment, the petitioners also referenced a 1996 study by the U.S. Department of Energy (DOE) (ADAMS Accession No. ML031140264) and three studies by the Electric Power Research Institute (EPRI), ''Plant Support Engineering: Life Cycle Management Planning Sourcebooks: Medium-Voltage (MV) Cables and Accessories (Terminations and Splices),'' EPRI Product ID: 1013187; ''Plant Support Engineering: Aging Management Program Development Guidance for AC and DC Low-Voltage Power Cable Systems for Nuclear Power Plants,'' EPRI Product ID: 1020804; and ''Plant Support Engineering: Aging Management Program Guidance for Medium-Voltage Cable Systems for Nuclear Power Plants,'' EPRI Product ID: 1020805. The EPRI documents are available for download from *www.EPRI.com*.

Also in support of their request for rulemaking to extend § 50.49 requirements to electrical equipment in mild environments, the petitioners contended that the NRC's requirements state only that safety systems should remain functional and do not provide conditions or acceptance criteria for degraded cables.

NRC Response to Issue 2: The NRC agrees that § 50.49 does not apply to reactor cables and electrical equipment exposed to mild environments. This section of the rule applies EQ requirements only to important to safety cables and electrical equipment that may be exposed to non-mild environments during accident conditions. The purpose of the final § 50.49 rule (48 FR 2730; January 21, 1983) was to codify accepted industry standards and NRC guidance for the EQ of safety-related electrical equipment, and non-safety-related equipment relied on by safety-related equipment, that must perform a safety function under DBE conditions.

The NRC disagrees with the petitioners' assertion that § 50.49 should be amended to extend EQ requirements to important to safety cables and electrical equipment exposed to submergence or moisture intrusion in mild environments. The existing rule specifically exempts from these requirements equipment exposed only to a ''mild environment,'' which is defined in § 50.49(c) as an environment that would at no time be significantly more severe than the environment that would occur during normal plant operation, including anticipated operational occurrences.

All important to safety equipment whether in mild or non-mild environments is subject to the requirements for monitoring the effectiveness of maintanence under the maintenance rule (§ 50.65). Furthermore, all important to safety equipment at plants with construction permits issued after May 21, 1971, is also subject to the design and quality requirements in 10 CFR part 50, appendix A. In addition to the above requirements, all safety-related equipment is also subject to the quality assurance requirements of 10 CFR part 50, appendix B. Therefore, equipment in mild environments exposed to submergence, condensation, and moisture intrusion, the kind of

degradation of concern to the petitioners, is subject to several existing requirements. For important to safety equipment that could be subject to environmental conditions that may result as a consequence of a DBE, § 50.49 establishes additional requirements beyond those stipulated in § 50.65; 10 CFR part 50, appendix A; and 10 CFR part 50, appendix B.

The maintenance rule (§ 50.65) establishes requirements for monitoring the effectiveness of maintenance at nuclear power plants. Under § 50.65(a)(1), licensees are required to monitor the condition or performance of structures, systems, or components (SSCs) in a manner providing reasonable assurance that the intended SSC functions can be fulfilled. Section 50.65(b) describes the types of SSCs subject to its requirements. The maintenance rule (§ 50.65) applies to safety and non-safety SSCs that includes the following: SSCs used in the plant's emergency operating procedures or relied upon to mitigate accidents or transient unsafe conditions; SSCs whose failure could prevent safety-related SSCs from fulfilling their safety-related function; or SSCs whose failure could cause a reactor scram (unplanned action to stop the fission reaction) or the actuation of a safety-related system. With this scope, the maintenance rule (§ 50.65) already covers the equipment specified in the petition (*i.e.,* all safety-related cables, wires, splices, connections, and other ancillary electrical equipment that may be subjected to submergence and/or moisture intrusion). Section 50.65 covers this equipment under any normal or unusual operating or post-accident conditions, whether these conditions include severe weather, seasonal flooding, or seismic events, or whether the SSCs are inside or outside of containment. The rule also covers the petitioners' specified systems and components whether or not they are exposed to submergence in water, condensation, wetting, and other environmental stresses during routine operation and infrequent events (*e.g.,* flooding).

In its April 2012 Regulatory Guide (RG) 1.218, ''Condition-Monitoring Techniques for Electric Cables Used In Nuclear Power Plants'' (ADAMS Accession No. ML103510447), the NRC described a programmatic approach and acceptable techniques for monitoring the condition of electric cable systems and their operating environments. As authority for this guidance, RG 1.218 cited 10 CFR part 50, Criterion XI, ''Test Control,'' of appendix B. Criterion XI specifies that power reactor licensees must have a program to assure that all testing required to show that SSCs will perform satisfactorily in service is identified and performed.

The test program must include, as appropriate, operational tests of SSCs during nuclear power plant operation. Test procedures must include provisions for assuring that all prerequisites for the given test have been met, that adequate test instrumentation is available and used, and that the test is performed under suitable environmental conditions. Test results under Criterion XI must also be ''documented and evaluated'' to ensure that this Criterion's requirements have been satisfied. It is important to note that Criterion XI is only one of 18 criteria that are applicable to a quality assurance program for the electrical equipment at issue in this petition. Appendix B criteria establish quality assurance requirements for the design, manufacture, construction, and operation of all safety-related equipment, and all activities affecting its functions, including not only testing, but designing, purchasing, fabricating, handling, shipping, storing, cleaning, installing, inspecting, operating, maintaining, repairing, and modifying this equipment. Criterion XVI, ''Corrective Action,'' also requires licensees to have measures assuring that conditions adverse to quality are promptly identified and corrected. Examples of such conditions are the following: failures, malfunctions, deficiencies, deviations, defective material and equipment, and nonconformances. For significant conditions adverse to quality, including the potential failure of electrical equipment to function as designed, licensees must determine the cause of the condition and ''assure'' that corrective action is taken to preclude a repetition of the adverse condition. The identified condition, its cause, and the corrective action taken to prevent its recurrence must also be documented and the appropriate levels of management informed. In addition, for important to safety cables and electrical equipment located in an area meeting the definition of a mild environment in § 50.49, 10 CFR part 50, appendix A, GDC 4 requires that this equipment be designed to manage the conditions it will experience during normal operation, maintenance, testing, and postulated accidents.

The NRC does not agree that its existing regulations do not require sufficient protection of important to safety electrical equipment against expected or potential environmental conditions it experiences during its period of service. Regardless of whether a cable, switch, or other piece of electrical equipment must be environmentally qualified under § 50.49, it must meet maintenance, design, and quality assurance requirements established by § 50.65; 10 CFR part 50, appendix A; and 10 CFR part 50, appendix B (for safety-related equipment), to provide adequate protection for public health and safety. And regardless of whether the equipment is environmentally qualified, it is subject to the same degree of NRC oversight in the form of inspections and enforcement. A rulemaking to require the environmental qualification of all electrical equipment exposed only to mild environments is, therefore, unnecessary.

Moreover, the 1996 DOE study and three EPRI studies cited by the petitioners are well known to the NRC and do not constitute significant new information justifying a rulemaking. The NRC recognized the concern regarding the reliability of low-voltage power cable systems at reactors that the petitioner references and acted accordingly. Among other things, the NRC has revised its inspection procedures to ensure annual inspections of underground bunkers and manholes in a continuing repeated cycle beginning with those containing the most risk-significant cables. The NRC also issued RG 1.218, describing a programmatic approach and acceptable techniques for monitoring the condition of electric cable systems and their operating environments.

The NRC disagrees with the petitioners' contention that the NRC's requirements do not provide conditions or acceptance criteria for degraded cables. Any requirement for safety-related systems to remain functional for a specified operating life is a design requirement, and any failure of the equipment before the end of that operating life would be a violation of that design requirement. Therefore, taken together, GDC 2, 4, and 18 in 10 CFR part 50, appendix A, the maintenance requirements under § 50.65, and the quality assurance testing requirements in 10 CFR part 50, appendix B, Criterion XI, effectively provide an enforceable acceptance criterion for the continued use of cables or any other electrical equipment degrading during normal operation. Criterion XI states that the measured rate of degradation must not impair the equipment's ability to function in an emergency, even if the emergency were to occur on the last day of the performance period specified in the equipment's design requirement.

Guidance for the implementation of this criterion is provided in the August 25, 2009, NRC staff regulatory resolution issue protocol, ''Cable Performance Issues at Nuclear Power Plants'' (ADAMS Accession No. ML092220419), which the petitioners cited as documentation of the NRC's requirements on cable and wire submergence issues. The NRC staff position in that protocol is: (1) Licensees should monitor cables within the scope of the maintenance rule (§ 50.65) at an appropriate frequency to demonstrate that they can perform their design functions when called upon; and (2) cables must be designed to fulfill their intended design function in the environment to which they are subject. Under the protocol, if cables have been exposed to conditions for which they are not designed or qualified, the licensee must demonstrate, through adequate testing or condition monitoring, that the cables can perform their intended design function for the duration of the qualified period specified in the license.

The NRC also inspects underground cables through established inspection procedures. In particular, Inspection Procedure (IP) Attachment 71111.06, ''Flood Protection Measures'' (ADAMS Accession No. ML11244A012), specifically directs NRC inspectors to perform an annual review of cables located in underground bunkers or manholes. The IP Attachment directs inspectors to select bunkers or manholes subject to flooding that contain multiple train or multiple risk-significant cables, and inspect those that contain more risk-significant cables before inspecting those with less risk-significant cables. The IP notes that inspectors should rotate through the bunkers or manholes until all are inspected; and then the cycle should be recommenced. The IP Attachment also clarifies that these inspections may be in addition to those for the aging management programs of plants with renewed licenses. Where ''significant moisture'' is identified at such plants, inspectors are to verify that the licensee takes action to keep the cables dry and assess cable degradation in accordance with the licensee's aging management program.

Issue 3: Although GDC 2 and 4 of the NRC's regulations require that cables be able to perform their design function when subjected to anticipated environmental conditions, the NRC does not apply these and other GDC to the 57 plants with construction permits issued before May 21, 1971, the effective date of the GDC rule (36 FR 3256; February 20, 1971).

Citing the August 25, 2009, NRC staff regulatory issue resolution protocol, ''Cable Performance Issues at Nuclear Power Plants,'' the petitioners asserted that this statement defined the NRC's governing regulations on submerged cable performance as explicitly including GDC 2 and GDC 4. The GDC 2 requires reactor SSCs that are important to safety be designed to withstand the effects of natural phenomena without loss of capability to perform their safety functions. The GDC 4 requires that these SSCs be designed to accommodate the effects of and be compatible with the environmental conditions associated with normal operation, maintenance, testing, and postulated accidents.

The petition stated that although these GDC may contain appropriate regulatory requirements for the qualification of electrical cables and wires, the NRC has determined that these requirements are not to be applied to the majority of reactors. The petitioners noted that, at the time the petition was submitted, at least 57 of the nation's 104 operating reactors had construction permits that were issued prior to the effective date of the GDC rule, and that the Commission, through guidance to the NRC staff, has determined that the GDC do not need to be applied to these 57 reactors.

NRC Response to Issue 3: The NRC disagrees with the petitioners' suggestion that the 57 plants that received construction permits prior to May 21, 1971, are not operating safely with appropriately qualified important to safety equipment. In 1992, after more than 15 years of analysis, the NRC staff recommended that the Commission retain the current policy that no exemptions from or specific backfits for the GDC are required for plants with construction permits issued before that date. In its September 18, 1992, Staff Requirements Memorandum (SRM) (ADAMS Accession No. ML003763736), the Commission endorsed the NRC staff's recommendation not to apply the GDC to plants with construction permits issued prior to the effective date of the GDC rule. This recommendation was based on the documented results of the NRC staff's evaluations of representative designs of 10 of the 57 plants against the design requirements of a 1975 Standard Review Plan for reactor license applications based on the approved GDC.

The SRM explained that at the time the GDC were promulgated, the Commission had stressed that they were not new requirements and were promulgated to articulate more clearly the licensing requirements and practice in effect at that time. The Commission stated that while compliance with the intent of the GDC is important, each plant licensed before the GDC were formally adopted was evaluated on a plant-specific basis, determined to be safe, and licensed by the NRC. Furthermore, the Commission determined that existing regulatory processes were sufficient to ensure that plants continue to be safe and comply with the intent of the GDC. As the petitioners also noted, the Commission went on to say that backfitting these 57 plants to meet the GDC would provide little or no safety benefit while requiring an extensive commitment of resources. The petitioners have not provided any significant, new, or previously unconsidered information to justify a new rulemaking or to reverse this NRC position.

III. Reasons for Denial

The NRC is denying PRM–50–106 because:

(1) The NRC disagrees with the petitioners' assertion that GL 82–09 has restricted the applicability of § 50.49 regulatory requirements for safety-related equipment according to its location. This regulation is applicable to electrical equipment located outside containment as well as inside.

(2) Section 50.49 explicitly excludes important to safety electrical equipment subject only to mild environments. The petitioners have not provided significant new information sufficient to justify a change to this rule. A rulemaking to require the environmental qualification of all electrical equipment exposed only to mild environments is unnecessary because existing NRC regulations require sufficient protection of important to safety electrical equipment against expected or potential environmental conditions it experiences during its period of service.

(3) With regard to the reactors that received construction permits prior to May 21, 1971, the Commission determined in response to SECY–92–223, ''Resolution of Deviations Identified During the Systematic Evaluation Program'' (ADAMS Accession No. ML12256B290) that these plants are operating safely with appropriately qualified important to safety equipment, and that no specific backfits of the GDC to these plants were required. The petitioners have not provided any significant, new, or previously unconsidered information justifying a rulemaking to apply the GDC to the 57 reactors that received construction permits prior to May 21, 1971.

IV. Conclusion

For the reasons cited in this document, the NRC is denying PRM–50–106. The NRC is denying this petition because the current regulations already address environmental qualification in both mild and design basis event conditions of electrical equipment located both inside and outside of the containment building that is important to safety, and the petitioners did not provide significant new or previously unconsidered information sufficient to justify rulemaking.

Dated at Rockville, Maryland, this 29th day of February, 2016.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 2016–05028 Filed 3–4–16; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF ENERGY

10 CFR Part 429

[Docket No. EERE–2015–BT–CE–0019]

RIN 1990–AA44

Energy Conservation Program: Certification and Enforcement—Import Data Collection; Notice of Extension of Comment Period

AGENCY: Office of the General Counsel, Department of Energy.

ACTION: Notice of reopening of comment period.

SUMMARY: On December 29, 2015, the U.S. Department of Energy (DOE) published a notice of proposed rulemaking in the **Federal Register** proposing that a person importing into the United States any covered product or equipment subject to an applicable energy conservation standard provide, prior to importation, a certification of admissibility to the DOE. The comment period ended February 12, 2016. On February 17, 2016, after receiving several requests for additional time to prepare and submit comments, DOE reopened the comment period until February 29, 2016. At a public meeting held on February 19, 2016, DOE again received requests for additional time to prepare and submit comments. DOE is reopening the period for submitting comments until March 14, 2016.

DATES: The DOE is reopening the comment period for the notice of proposed rulemaking published on December 29, 2015 (80 FR 81199) and extended on February 29, 2016 (81 FR 8022). We will accept comments, data, and information in response to the NOPR received no later than March 14, 2016.

ADDRESSES: See the section ''Public Participation'' for details on submitting comments.

FOR FURTHER INFORMATION CONTACT: Ms. Ashley Armstrong, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: 202–586–6590. Email: *ashley.armstrong@ee.doe.gov;* or Mr. Steven Goering, U.S. Department of Energy, Office of the General Counsel, Forrestal Building, GC–32, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: 202–286–5691. Email: *steven.goering@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: On December 29, 2015, the U.S. Department of Energy (DOE) published a notice of proposed rulemaking in the **Federal Register** proposing that a person importing into the United States any covered product or equipment subject to an applicable energy conservation standard provide, prior to importation, a certification of admissibility to the DOE. (80 FR 81199) The comment period ended February 12, 2016. On February 17, 2016, after receiving several requests for additional time to prepare and submit comments, DOE reopened the comment period until February 29, 2016 (81 FR 8022). At a public meeting held on February 19, 2016, DOE again received requests for additional time to prepare and submit comments. DOE is reopening the period for submitting comments.

DOE will accept comments, data, and information in response to the NOPR received no later than March 14, 2016. DOE will consider any comments in response to the NOPR received by midnight of March 14, 2016, and deems any comments received by that time to be timely submitted.

Public Participation

Any comments submitted must identify the NOPR for Import Data Collection, and provide docket number EERE–2015–BT–CE–0019 and/or regulatory information number (RIN) number 1990–AA44. Comments may be submitted using any of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.

2. *Email: ImportData2015CE0019@ee.doe.gov.* Include the docket number and/or RIN in the subject line of the message.

3. *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. If possible, please submit all items on a CD. It is not necessary to include printed copies.

4. *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024. Telephone: (202) 586–2945. If possible, please submit all items on a CD. It is not necessary to include printed copies.

Docket: The docket, which includes **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials, is available for review at regulations.gov. All documents in the docket are listed in the regulations.gov index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

A link to the docket Web page can be found at: *http://www.regulations.gov/#!docketDetail;D=EERE-2015-BT-CE-0019.* This Web page will contain a link to the docket for this notice on the regulations.gov site. The regulations.gov Web page will contain simple instructions on how to access all documents, including public comments, in the docket.

For further information on how to submit a comment, review other public comments and the docket, or to request a public meeting, contact Ms. Brenda Edwards at (202) 586–2945 or by email: *Brenda.Edwards@ee.doe.gov.*

Issued in Washington, DC, on February 26, 2016.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2016–04829 Filed 3–4–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 900

RIN 1901–AB36

Coordination of Federal Authorizations for Electric Transmission Facilities; Notice of Public Meeting

AGENCY: Office of Electricity Delivery and Energy Reliability, Department of Energy.

ACTION: Proposed rulemaking; notice of public meeting.

SUMMARY: This document announces that the U.S. Department of Energy (DOE) will hold a public workshop to discuss the proposed rule for the coordination of federal authorizations for electric transmission facilities for the Integrated Interagency Pre-application (IIP) process. The public workshop will include a presentation describing the proposed rule and will allow for questions and comments about and on the rule.

DATES: The public workshop will be held on March 22, 2016, beginning at 1:00 p.m. Eastern Time. Written comments are welcome before or after the workshop and should be submitted prior to the end of the public comment period for the proposed rule (April 4, 2016).

ADDRESSES: The meeting will be held via webinar and conference call. The webinar invitation, phone number, and instructions on how to register and log in to the webinar will be available at: *http://energy.gov/oe/downloads/notice-proposed-rulemaking-integrated-interagency-pre-application-process-iip-electric.*

You may submit comments, identified by RIN 1901–AB36, by any of the following methods:

1. Follow the instructions for submitting comments on the Federal eRulemaking Portal at *http://www.regulations.gov.*

2. Send email to *oeregs@hq.doe.gov.* Include RIN 1901–AB36 in the subject line of the email. Please include the full body of your comments in the text of the message or as an attachment.

3. Address postal mail to U.S. Department of Energy, Office of Electricity Delivery and Energy Reliability, Mailstop OE–20, Room 8G–017, 1000 Independence Avenue SW., Washington, DC 20585.

Due to potential delays in the delivery of postal mail, we encourage respondents to submit comments electronically to ensure timely receipt.

This notice, a transcript of the public workshop, and any comments that DOE receives on the proposed rulemaking will be made available on the DOE Web site at *http://energy.gov/oe/downloads/notice-proposed-rulemaking-integrated-interagency-pre-application-process-iip-electric.* You may request a hardcopy of the workshop transcript or comments be sent to you via postal mail by contacting the DOE's Office of Electricity Delivery and Energy Reliability.

FOR FURTHER INFORMATION CONTACT: Julie A. Smith, Ph.D., U.S. Department of Energy, Office of Electricity Delivery and Energy Reliability, Mailstop OE–20, Room 8G–017, 1000 Independence Avenue SW., Washington, DC 20585; or *oeregs@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: On February 2, 2016, DOE published a proposed rule in the **Federal Register** (81 FR 5383) to provide a process for the timely coordination of Federal authorizations for proposed transmission facilities pursuant to section 216(h) of the FPA (16 U.S.C. 824p(h)). The rule would establish an early pre-application process (the Integrated Interagency Pre-application (IIP) process) in support of this coordination and the selection of a NEPA lead agency. The proposed regulations provide a framework for DOE to facilitate early cooperation and exchange of environmental information required to site qualified electric transmission facilities. These activities would occur prior to an applicant filing a request for authorization with Federal permitting agencies. The proposed regulations also provide an opportunity for non-Federal agencies (tribal, state, or local governments) to coordinate separate non-Federal permitting and environmental reviews with those of the Federal permitting agencies. This document announces the public workshop described in the proposed rule.

Members of the public are welcome to pre-register for the webinar if they would like to make oral statements during the specified period for public comment. To pre-register to provide public comments, please email *oeregs@hq.doe.gov.* In the email, please indicate your name, organization (if appropriate), citizenship, and contact information. If you would like to receive further information on the proposed rule or IIP process, please include your email address in your pre-registration email.

An audio recording and written transcript of the public workshop, and any comments that DOE receives during the workshop, will be made available after the webinar on the DOE Web site at *http://energy.gov/oe/downloads/notice-proposed-rulemaking-integrated-interagency-pre-application-process-iip-electric.* You may request a hardcopy of the workshop transcript or comments be sent to you via postal mail by contacting DOE's Office of Electricity Delivery and Energy Reliability.

Issued in Washington, DC, on February 29, 2016.

Meghan Conklin,

Deputy Assistant Secretary, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2016–04986 Filed 3–4–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–3992; Directorate Identifier 2015–NM–075–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 787–8 airplanes. This proposed AD was prompted by a report that a captain's seat moved uncommanded during a landing rollout due to a failure in the seat horizontal actuator. This proposed AD would require repetitive tests of the captain and first officer seat assemblies for proper operation, and corrective action if necessary. This proposed AD would also require installing new captain and first officer seat assemblies, which would terminate the repetitive tests. We are proposing this AD to prevent a seat actuator clutch failure, which could result in a loss of seat locking and uncommanded motion of the captain's or first officer's seat; uncommanded seat movement could result in reduced controllability of the airplane.

DATES: We must receive comments on this proposed AD by April 21, 2016.

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

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

For service information identified in this NPRM, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–3992.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–3992; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Brandon Lucero, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6572; fax: 425–917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2016–3992; Directorate Identifier 2015–NM–075–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

This proposed AD was prompted by a report that a captain's seat moved uncommanded during a landing rollout due to a failure in the seat horizontal actuator. Investigation found press fit clutch pins in the actuator could migrate loose when subjected to repeated dynamic impact loading from clutch re-engagement when the manual horizontal control lever is released with the seat still moving on the tracks. The clutch pins can migrate loose, overturn, and force clutch plate separation, resulting in degraded or failed seat locking.

We are proposing this AD to prevent a seat actuator clutch failure, which could result in a loss of seat locking and uncommanded motion of the captain's or first officer's seat; uncommanded seat movement could result in reduced controllability of the airplane.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin B787–81205–SB250054–00, Issue 001, dated December 19, 2014. This service information provides procedures for installation of new captain and first officer seat assemblies, a test of the captain and first officer seat assemblies, and corrective action if necessary. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information described previously. For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–3992.

The phrase ''corrective actions'' is used in this proposed AD. ''Corrective actions'' are actions that correct or address any condition found. Corrective actions in an AD could include, for example, repairs.

Costs of Compliance

We estimate that this proposed AD affects 18 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Operational test	2 work-hours × $85 per hour = $170 per test cycle.	$0	$170 per test cycle	$3060
Seat assembly installation	3 work-hours × $85 per hour = $255 to replace two seats.	$15,141 per seat × 2 seats = $30,282.	30,537 to replace two seats	549,666

We estimate the following costs to do any necessary corrective actions that would be required based on the results of the proposed operational tests. We have no way of determining the number of aircraft that might need these actions:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement of captain seat vertical actuator	2 work-hours × $85 per hour = $170	$7,500	$7,670
Replacement of captain seat horizontal actuator	2 work-hours × $85 per hour = $170	7,500	7,670
Replacement of first officer seat vertical actuator	2 work-hours × $85 per hour = $170	7,500	7,670
Replacement of first officer seat horizontal actuator	2 work-hours × $85 per hour = $170	7,500	7,670

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

The Boeing Company: Docket No. FAA–2016–3992; Directorate Identifier 2015–NM–075–AD.

(a) Comments Due Date

We must receive comments by April 21, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 787–8 airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin B787–81205–SB250054–00, Issue 001, dated December 19, 2014.

(d) Subject

Air Transport Association (ATA) of America Code 25, Equipment/furnishings.

(e) Unsafe Condition

This AD was prompted by a report that a captain's seat moved uncommanded during a landing rollout due to a failure in the seat horizontal actuator. We are issuing this AD to prevent a seat actuator clutch failure, which could result in a loss of seat locking and uncommanded motion of the captain's or first officer's seat; uncommanded seat motion could result in reduced controllability of the airplane.

(f) Compliance

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

(g) Repetitive Tests of Captain and First Officer Seat Assembly Operation

Within 1,000 flight hours after the effective date of this AD, test the operation of the captain and first officer seat assemblies and do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin B787–81205–SB250054–00, Issue 001, dated December 19, 2014. Do all applicable corrective actions before further flight. Repeat the operational test thereafter at intervals not to exceed 1,000 flight hours until the installation required by paragraph (h) of this AD is done.

(h) New Seat Installation

Within 72 months after the effective date of this AD, do the actions specified in paragraphs (h)(1) and (h)(2) of this AD, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin B787–81205–SB250054–00, Issue 001, dated December 19, 2014. Installing the seat specified in paragraph (h)(1) or (h)(2) of this AD is terminating action for the repetitive operational tests required by paragraph (g) of this AD for that seat only.

(1) Install new captain seat assembly, part number (P/N) 3A380–0007–01–7.

(2) Install new first officer seat assembly, P/N 3A380–0008–01–7.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office, ANM–150S, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (j)(1) of this AD.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (i)(4)(i) and (i)(4)(ii) of this AD, apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

(j) Related Information

(1) For more information about this AD, contact Brandon Lucero, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6572; fax: 425–917–6590.

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on February 23, 2016.

Dionne Palermo,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–04679 Filed 3–4–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–3993; Directorate Identifier 2015–NM–065–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Airbus Model A300 series airplanes; Model A300 B4–600, B4–600R, F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes); and Model A310 series airplanes. This proposed AD was prompted by reports of partial loss of no-back brake (NBB) efficiency on the trimmable horizontal stabilizer actuator (THSA). This proposed AD would require an inspection to determine THSA part number, serial numbers, and flight cycles on certain THSAs; and repetitive replacement for certain THSAs. We are proposing this AD to prevent loss of THSA NBB efficiency, which in conjunction with the power gear not able to keep the ball screw in its last commanded position, could lead to an uncommanded movement of the horizontal stabilizer, possibly resulting in loss of control of the airplane.

DATES: We must receive comments on this proposed AD by April 21, 2016.

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

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

For service information identified in this NPRM, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone: +33 5 61 93 36 96; fax: +33 5 61 93 44 51; email: *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–3993; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–227–2125; fax: 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2016–3993; Directorate Identifier 2015–NM–065–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2015–0081, dated May 7, 2015 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition. The MCAI states:

> During endurance qualification tests on a Trimmable Horizontal Stabilizer Actuator (THSA) concerning another aeroplane type, a partial loss of the noback brake (NBB) efficiency was experienced. Investigation results concluded that this partial loss of braking efficiency in some specific aerodynamic load conditions was due to polishing and auto-contamination of the NBB carbon friction disks.
>
> Due to design similarity on the A300–600, A300–600ST and A310 fleet, the same tests were initiated by the THSA manufacturer on certain type THSA, sampled from the field. Subject tests confirmed that THSA Part Number (P/N) 47142 series, as installed on the A300–600, A300–600ST and A310 fleet, are also affected by this partial loss of NBB efficiency.
>
> This condition, if not detected and corrected, and in conjunction with the power gear not able to keep the ball screw in its last commanded position, could potentially lead to an uncommanded movement of the Horizontal Stabilizer, possibly resulting in loss of control of the aeroplane.
>
> For the reasons described above, this [EASA] AD requires the removal from service of each affected THSA, with the intent of in-shop NBB carbon disk replacement.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–3993.

Related Service Information Under 1 CFR Part 51

Airbus has issued Airbus Service Bulletin A300–27–6070, dated February 17, 2015; and Airbus Service Bulletin A310–27–2106, dated February 17, 2015. This service information describes procedures for inspection and replacement of the THSA.

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

FAA's Determination and Requirements of This Proposed AD

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

Explanation of Compliance Times

In most ADs, we adopt a compliance time allowing a specified amount of time after the AD's effective date. In this case, however, EASA has already issued regulations that require operators to replace certain THSAs to address an identified unsafe condition by certain dates, but before exceeding certain flight cycle limits corresponding to each date. To provide for coordinated implementation of EASA's regulations and this proposed AD, we are using the same compliance dates in this proposed AD.

This AD proposes the replacement of the NBB disks at an interval of 14,600 flight cycles to take full benefit of the THSA published life limits. The replacement of the THSA NBB disks having already accumulated more than 14,600 flight cycles will start with the oldest THSA. A different grace period for NBB disks replacement has been defined depending on the flight cycles accumulated on the THSA NBB disks.

Costs of Compliance

We estimate that this proposed AD affects 152 airplanes of U.S. registry.

We also estimate that it would take about 27 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $590,000 per product. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $90,028,840, or $592,295 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

Airbus: Docket No. FAA–2016–3993; Directorate Identifier 2015–NM–065–AD.

(a) Comments Due Date

We must receive comments by April 21, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the Airbus airplanes identified in paragraphs (c)(1) through (c)(6) of this AD, certificated in any category, all manufacturer serial numbers.

(1) Airbus Model A300 B2–1A, B2–1C, B2K–3C, B2–203, B4–2C, B4–103, and B4–203 airplanes.

(2) Airbus Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes.

(3) Airbus Model A300 B4–605R and B4–622R airplanes.

(4) Airbus Model A300 F4–605R and F4–622R airplanes.

(5) Airbus Model A300 C4–605R Variant F airplanes.

(6) Airbus Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight controls.

(e) Reason

This AD was prompted by reports of partial loss of no-back brake (NBB) efficiency on the trimmable horizontal stabilizer actuator (THSA). We are issuing this AD to prevent loss of THSA NBB efficiency, which in conjunction with the power gear not able to keep the ball screw in its last commanded position, could lead to an uncommanded movement of the horizontal stabilizer, possibly resulting in loss of control of the airplane.

(f) Compliance

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

(g) Affected THSAs

THSAs affected by the requirements of this AD have part numbers (P/Ns) 47142–403, 47142–413, 47142–414, and 47142–423.

Note 1 to paragraph (g) of this AD: FAA AD 2011–15–08, Amendment 39–16755 (76 FR 42029, July 18, 2011) requires installation of three secondary retention plates for the gimbal bearings on the THSA upper primary attachment, which involved a THSA part number change from the -300 series to the –400 series.

Note 2 to paragraph (g) of this AD: The life limits specified in Part 4 of the airworthiness limitations section are still relevant for the affected THSA. This AD addresses a replacement limit for the NBB disks installed on the THSA, not the life limit for the THSA itself.

(h) Inspection for Affected THSAs, Flight Cycles, and THSA Replacement

Before each date and before exceeding the corresponding THSA flight-cycle limits specified in paragraphs (j)(1), (j)(2), and (j)(3) of this AD, do the actions specified in paragraphs (h)(1) and (h)(2) of this AD, and before exceeding the flight cycle limit corresponding to each date as specified in paragraphs (j)(1), (j)(2), and (j)(3) of this AD, do the actions specified in paragraph (i) of this AD.

(1) Do an inspection of the THSA to determine the part number and serial number.

(2) Do an inspection of the airplane maintenance records to determine the flight cycles accumulated on each affected THSA since first installation on an airplane, or since last NBB replacement, whichever is later. If no maintenance records conclusively identifying the last NBB disk replacement are available, the flight cycles accumulated since first installation of the THSA on an airplane apply.

(i) THSA Replacement

By each date specified in paragraphs (j)(1), (j)(2), and (j)(3) of this AD, for those affected THSAs having reached or exceeded the corresponding number of flight cycles

specified in paragraphs (j)(1), (j)(2), and (j)(3) of this AD, replace the THSA with a serviceable unit, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–27–6070, dated February 17, 2015; or Airbus Service Bulletin A310–27–2106, dated February 17, 2015, as applicable.

(j) Compliance Dates and THSA Flight Cycle Limits

Paragraphs (j)(1), (j)(2), and (j)(3) of this AD specify compliance dates and THSA flight cycle limits for accomplishing the actions required by paragraphs (h) and (i) of this AD.

(1) As of 30 days after the effective date of this AD: The affected THSA flight-cycle limit is 30,000 flight cycles since first installation of the THSA on an airplane, or since last NBB replacement, whichever is later.

(2) As of February 1, 2017: The affected THSA flight-cycle limit is 20,000 flight cycles since first installation of the THSA on an airplane, or since last NBB replacement, whichever is later.

(3) As of February 1, 2018: The affected THSA flight-cycle limit is 14,600 flight cycles since first installation of the THSA on an airplane, or since last NBB replacement, whichever is later.

(k) Serviceable THSA Definition

For the purpose of this AD, a serviceable THSA is a unit identified in paragraph (k)(1) or (k)(2) of this AD.

(1) A THSA identified in paragraph (g) of this AD that, as of each date specified in paragraphs (j)(1), (j)(2), and (j)(3) of this AD, has not exceeded the flight cycle limits specified in paragraphs (j)(1), (j)(2), and (j)(3) of this AD since first installation of the THSA on an airplane, or since the last NBB disk replacement, whichever is later.

(2) A THSA with a different part number (*e.g.,* a THSA that is not identified in paragraph (g) of this AD) that is not affected by the requirements of this AD.

(l) THSA Replacements

As of each date and before exceeding the flight cycle limit corresponding to each date specified in paragraphs (j)(1), (j)(2), and (j)(3) of this AD: Replace each affected THSA with a serviceable unit, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–27–6070, dated February 17, 2015; or Airbus Service Bulletin A310–27–2106, dated February 17, 2015.

(m) Parts Installation Limitation

Before each date specified in paragraphs (j)(1), (j)(2), and (j)(3) of this AD, an operator may install an affected THSA on an airplane, provided that the unit has not exceeded the corresponding number of flight cycles specified in paragraphs (j)(1), (j)(2), and (j)(3) of this AD, since first installation on an airplane, or since last NBB replacement, whichever occurred later.

(n) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–227–2125; fax: 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* If any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(o) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2015–0081, dated May 7, 2015, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–3993.

(2) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone: +33 5 61 93 36 96; fax: +33 5 61 93 44 51; email: *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on February 24, 2016.

Dionne Palermo,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–04562 Filed 3–4–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2015–3085; Airspace Docket No. 15–ASW–2]

Proposed Amendment of Class E Airspace; Little Rock, AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace at Little Rock Air Force Base (AFB), Little Rock, AR. Airspace reconfiguration is necessary due to closure of the air traffic control tower and associated approaches at Dennis F. Cantrell Field, Conway, AR. Dennis F. Cantrell Field would be removed from the airspace designation and legal description as it is no longer needed to describe the boundaries of Little Rock AFB. The FAA is proposing this action for continued safety within the National Airspace System (NAS). Additionally, the geographic coordinates for Little Rock AFB and Saline County Airport, Benton, AR, would be adjusted.

DATES: Comments must be received on or before April 21, 2016.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–9826. You must identify FAA Docket No. FAA–2015–3085; Airspace Docket No. 15–ASW–2, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records

Administration (NARA). For information on the availability of FAA Order 7400.9Z at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2015–3085/Airspace Docket No. 15–ASW–2.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Availability and Summary of Documents Proposed for Incorporation by Reference

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

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) Part 71 by amending the Class E airspace area at Little Rock Air Force Base (AFB), AR. The air traffic control tower at Dennis F. Cantrell Field, Conway, AR, has closed, and approaches cancelled. This action would remove Dennis F. Cantrell Field, from the airspace designation and description for Little Rock AFB, as they are no longer needed to define its boundaries. Additionally, geographic coordinates for Little Rock AFB, would be changed from (lat. 34°54′59″ N., long. 92°08′47″ W.) to (lat. 34°55′03″ N., long. 92°08′42″ W.) and Saline County Airport, Benton, AR, coordinates would be changed from (lat. 34°33′23″ N., long. 92°36′25″ W.) to (lat. 34°35′25″ N., long. 92°28′46″ W.). These minor adjustments would reflect the current information in the FAA's aeronautical database.

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

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and

effective September 15, 2015, is amended as follows:

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

* * * * *

ASW AR E5 Little Rock, AR [Amended]

Little Rock AFB, AR
(Lat. 34°55′03″ N., long. 92°08′42″ W.)
Little Rock, Adams Field, AR
(Lat. 34°43′46″ N., long. 92°13′29″ W.)
Benton, Saline County Airport, AR
(Lat. 34°35′25″ N., long. 92°28′46″ W.)

That airspace extending upward from 700 feet above the surface bounded within a 20-mile radius of Little Rock AFB, and within a 22-mile radius of Adams Field Airport and within a 6.3-mile radius of Saline County Airport.

Issued in Fort Worth, TX, on February 17, 2016.

Walter Tweedy,

Acting Manager, Operations Support Group Central Service Center.

[FR Doc. 2016–04742 Filed 3–4–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2016–3193; Airspace Docket No. 15–AAL–3]

RIN 2120–AA66

Proposed Modification of Federal Airway V–506; Kotzebue, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify Alaskan VOR Federal airway V–506 by lowering the floor of class E controlled airspace due to the establishment of a lower global navigation satellite system (GNSS) minimum enroute altitude (MEA). This action would allow maximum use of the airspace.

DATES: Comments must be received on or before April 21, 2016.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; telephone: (202) 366–9826. You must identify FAA Docket No. FAA–2016–3193 and Airspace Docket No. 15–AAL–3 at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

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

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2016–3193 and Airspace Docket No. 15–AAL–3) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2016–3193 and Airspace Docket No. 15–AAL–3.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified comment closing date will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Western Service Center, Operations Support Group, Federal Aviation Administration, 1601 Lind Ave SW., Renton, WA 98057.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Availability and Summary of Documents for Incorporation by Reference

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

Background

On September 24, 1975, the FAA published a final rule that extended V–506 between Kotzebue and Barrow Alaska (40 FR 43885). Terrain in the vicinity limited the Minimum Enroute Altitude (MEA) to 10,000 feet for a large portion of this route, between the fixes SHOKK and MEADE on current charts. Due to this MEA, the airspace floor designated in the legal description was set at 9,500 feet for this section. In 2005, Anchorage Center requested a review for a lower GNSS MEA, and the FAA was able to apply a lower GNSS MEA of 8,000 feet. However, this action did not uncover the fact that controlled airspace did not exist to encompass the new MEA. On September 24, 2015, the FAA issued NOTAM FDC 5/6054 that made the GNSS MEA between SHOKK and MEADE unavailable.

The Proposal

The FAA is proposing an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to modify Federal airway V–506 in Alaska that would lower the floor of controlled airspace north of Kotzebue, AK. The current legal description after Kotzebue, AK, of ''Kotzebue, AK; Hotham, AK, NDB; 69 miles 12 AGL, 124 miles 95 MSL, 98 miles 12 AGL, Barrow, AK.'' would be changed to read ''Kotzebue, AK; Hotham, AK, NDB; 69 miles 12 AGL, 124 miles 75 MSL, 98 miles 12 AGL, Barrow, AK.''. The 124 mile section starting 69 miles north of the Hotham, AK NDB would be lowered from 9,500 feet to 7,500 feet. This airspace would support the GNSS MEA of 8,000 feet by providing a 500 foot buffer consistent with guidance found in FAA Order 7400.2, Procedures for Handling Airspace Matters. This expansion of airspace would provide instrument flight rules (IFR) users maximum use of V–506.

Alaskan VOR federal airways are published in paragraph 6010(b) of FAA Order 7400.9Z dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR 71.1. V–506 would be subsequently published in the Order.

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6010(b) Alaskan VOR Federal Airways.

* * * * *

V–506 (Amended)

From INT Kodiak, AK, 107° radial and the Anchorage Oceanic CTA/FIR boundary, 37 miles 20 MSL, 24 miles 12 AGL, via Kodiak; 50 miles 12 AGL, 50 miles 95 MSL, 51 miles 12 AGL, King Salmon, AK; 51 miles 12 AGL, 84 miles 70 MSL, 63 miles 12 AGL, Bethel, AK; Nome, AK; 35 miles 12 AGL, 71 miles 55 MSL, 53 miles 12 AGL, Kotzebue, AK; Hotham, AK, NDB; 69 miles 12 AGL, 124 miles 75 MSL, 98 miles 12 AGL, Barrow, AK.

* * * * *

Issued in Washington, DC, on February 25, 2016.

Kenneth Ready,

Acting Manager, Airspace Policy Group.

[FR Doc. 2016–04738 Filed 3–4–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2016–0526; Airspace Docket No. 16–ASW–3]

Proposed Amendment of Class E Airspace; Taos, NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify Class E airspace extending upward from 700 feet above the surface at Taos Regional Airport, Taos, NM. Decommissioning of non-directional radio beacon (NDB) and cancellation of the NDB approaches due to advances in Global Positioning System (GPS) capabilities have made this action necessary for the safety and management of Instrument Flight Rules (IFR) operations at Taos Regional Airport.

DATES: Comments must be received on or before April 21, 2016.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–9826. You must identify FAA Docket No. FAA–2016–0526; Airspace Docket No. 16–ASW–3, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket

Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

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

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

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2016–0526/Airspace Docket No. 16–ASW–3.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Availability and Summary of Documents Proposed for Incorporation by Reference

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

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) Part 71 by modifying Class E airspace extending upward from 700 feet above the surface at Taos Regional Airport, Taos, NM. Airspace reconfiguration is necessary due to the decommissioning of the NDB and cancellation of the NDB approaches at Taos Regional Airport. Advances in GPS capabilities would ensure the safety and management of IFR operations at the airport.

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

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

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

* * * * *

ASW NM E5 Taos, NM [Amended]

Taos Regional Airport, NM
(Lat. 36°27′29″ N., long. 105°40′21″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Taos Regional Airport; and that airspace extending upward from 1,200 feet above the surface beginning at lat. 36°07′00″ N., long. 105°47′42″ W., thence via the 21.3-mile arc of Taos Regional Airport clockwise to lat. 36°48′00″ N., long. 105°47′35″ W., thence to lat. 36°30′00″ N., long. 105°30′02″ W., thence to the point of beginning.

Issued in Fort Worth, Texas, on February 26, 2016.

Robert W. Beck,

Manager, Operations Support Group, Central Service Center.

[FR Doc. 2016–04848 Filed 3–4–16; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 23

Guides for the Jewelry, Precious Metals, and Pewter Industries

AGENCY: Federal Trade Commission (''FTC'' or ''Commission'').

ACTION: Extension of deadline for submission of public comments.

SUMMARY: The FTC is extending the deadline for filing public comments on the Guides for the Jewelry, Precious Metals, and Pewter Industries.

DATES: Comments will be accepted until June 3, 2016.

ADDRESSES: Interested parties may file comments online or on paper by following the instructions at the end of the **SUPPLEMENTARY INFORMATION** section below. Write ''Jewelry Guides, 16 CFR part 23, Project No. G711001'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/jewelryguidesreview* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex O), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex O), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Reenah L. Kim, Attorney, (202) 326–2272, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION:ON JANUARY 12, 2016, AS PART OF THE COMMISSION'S SYSTEMATIC REVIEW OF ITS RULES AND GUIDES, THE FTC PUBLISHED A NOTICE IN THE Federal Register (''FRN'') REQUESTING PUBLIC COMMENTS ON PROPOSED REVISIONS TO THE GUIDES FOR THE JEWELRY, PRECIOUS METALS, AND PEWTER INDUSTRIES (''JEWELRY GUIDES'' OR ''GUIDES'').[1] AS SET FORTH IN THE FRN, THE COMMISSION PROPOSED SEVERAL CHANGES AND ADDITIONS DESIGNED TO HELP PREVENT DECEPTION IN JEWELRY MARKETING. THE FRN INVITED COMMENTS ON THE PROPOSED REVISIONS GENERALLY, AND ALSO POSED A SERIES OF 75 QUESTIONS ON SPECIFIC ISSUES. THE FRN SET APRIL 4, 2016 AS THE DEADLINE FOR FILING COMMENTS.

A trade association representing jewelry industry members, Jewelers Vigilance Committee (''JVC''), requests a 60-day extension of the comment deadline. JVC explains that the FRN poses many questions that may require consumer research, metallurgical testing, and other information developed through experts. JVC states that additional time is therefore needed for the committees it has convened to coordinate their work, perform the necessary analysis, and develop meaningful consumer research and other expert information.

Given the complexity and range of issues raised in the FRN, including the request for consumer perception evidence, the Commission believes that allowing additional time for filing comments would help facilitate the creation of a more complete record. Moreover, this brief extension would not harm consumers because the current Guides remain in effect during the review process. Therefore, the Commission has decided to extend the comment period to June 3, 2016.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before June 3, 2016. Write ''Jewelry Guides, 16 CFR part 23, Project No. G711001'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site. Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, such as anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually-identifiable health information. In addition, do not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential,'' as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you must follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[2] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. Accordingly, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/jewelryguidesreview* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov,* you also may file a comment through that Web site.

If you file your comment on paper, write ''Jewelry Guides, 16 CFR part 23, Project No. G711001'' on your comment

[1] 81 FR 1349 (Jan. 12, 2016).

[2] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

and on the envelope, and mail it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex O), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex O), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before June 3, 2016. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy at *http://www.ftc.gov/ftc/privacy.htm.*

By direction of the Commission.

Donald S. Clark

Secretary.

[FR Doc. 2016–04883 Filed 3–4–16; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 89

[Docket ID: DOD–2014–OS–0020]

RIN 0790–AJ33

Interstate Compact on Educational Opportunity for Military Children

AGENCY: Under Secretary of Defense for Personnel and Readiness, DoD.

ACTION: Proposed rule.

SUMMARY: DOD is establishing policies based on section 539 of Public Law 111–84 to implement the Interstate Compact on Educational Opportunity for Military Children (referred to as the ''Compact'') within the DoD. The proposed rule provides components with policies to support the intent of the Compact, which is to aid the transition of school-age children in military families between school districts (to include between Department of Defense Educational Activity schools and state school districts). Each state joining the compact agrees to address specific school transition issues in a consistent way and minimize school disruptions for military children transferring from one state school system to another. The compact consists of general policies in four key areas: Eligibility, enrollment, placement and graduation. Children of active duty members of the uniformed services, National Guard and Reserve on active duty orders, and members or veterans who are medically discharged or retired for one year are eligible for assistance under the Compact.

DATES: Comments must be received by May 6, 2016.

ADDRESSES: You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) 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 or RIN 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: Marcus Beauregard, 571–372–5357.

SUPPLEMENTARY INFORMATION:

Executive Summary

I. Purpose of This Rulemaking

This proposed rule provides components of the DoD with policies to support the intent of the Compact, which is to aid the transition of school-age children in military families between school districts. The intent of the program is to ensure children are enrolled immediately in their new school, placed in the appropriate academic program, and are able to graduate on time.

Each state joining the compact agrees to address specific school transition issues in a consistent way and minimize school disruptions for military children transferring from one state school system to another. The compact consists of general policies in four key areas: Eligibility, enrollment, placement and graduation.

As of August 2014, 50 states have passed legislation to become members of the compact, including most of those with large numbers of military residents. The Department of Defense Education Activity cannot be a member of the compact but is complying with its provisions in both overseas and domestic schools. In return, the compact member states have agreed to treat students coming from a DoDEA school as though they were transferring from a member state. The compact has provisions for member states to facilitate enrollment in the following areas:

Enrollment

- *Education records.* When a family leaves a school district in a member state, the parents may receive a set of unofficial records to carry to the new school in another member state. It will include all the information the new school needs to enroll and place the child until they receive the official records. In addition, the compact requires all sending school districts within member states to send official transcripts within 10 days of a request from the receiving state school district.
- *Immunizations.* If a child transferring to a member state needs additional immunizations, he or she may enroll and begin school. Parents then have 30 days to see that the child gets the required immunizations. If further immunizations are required, they must be started within 30 calendar days of enrollment. Tuberculosis testing is not covered under the compact since the TB test is not an immunization but rather a health screening.
- *Kindergarten and first grade entrance age.* If the entrance age requirement in the new school system is different, transitioning children may continue in the same grade if they have already started kindergarten or first grade where the family was previously stationed. This provision also allows children to move up to first or second grade, regardless of age requirements, if they have completed kindergarten or first grade in another state.

Placement and Attendance

Students from military families often miss appropriate placement in required classes, advanced placement and special-needs programs while awaiting evaluation at the new school. The compact requires cooperation in the following areas:

- *Course and education program placement.* A receiving school district in a member state must initially honor placement of a student based on his or her enrollment in the sending state, provided the new school has a similar or equivalent program. The receiving school may evaluate the student after

placement to ensure it is appropriate, but the school may not put children into ''holding classes'' while they await assessment. The receiving school may allow the student to attend similar education courses in other schools within the district if the receiving school does not offer such courses.

• *Special education services.* Students covered by the Individuals with Disabilities Education Act receive the same services (although not necessarily identical programs) identified in the individual education plan from the sending state. This is a parallel requirement under federal law.

• *Placement flexibility.* School districts are encouraged to determine if course or program prerequisites can be waived for students who have completed similar coursework in the sending school district. This process allows students to take advanced courses rather than repeat similar basic courses.

• *Absence related to deployment activities.* Students in member states may request additional, excused absences to visit with their parent or legal guardian immediately before, during and after deployment. Schools have flexibility in approving absences if there are competing circumstances such as state testing or if the student already has excessive absences.

Eligibility

The compact asks school districts in member states to examine their rules for eligibility to allow children of military parents to have the continuity they need.

• *Enrollment.* When a child of a deployed parent is staying with a non-custodial parent, a relative or a friend who is officially acting in place of the parents and lives outside of the home school district, the child may continue to attend his or her own school as long as the care provider ensures transportation to school. The compact also stipulates that a power of attorney for guardianship is sufficient for enrollment and all other actions requiring parental participation or consent.

• *Extracurricular participation.* When children transfer to a new school, their participation in extracurricular activities is facilitated—provided they're eligible—even if application deadlines and tryouts have passed. Schools must make reasonable accommodations but are not required to hold spaces open for military-related transferees.

Graduation

School transitions can be especially challenging for high school students. The compact requires school districts to make the following accommodations to facilitate on-time graduation:

• *Course waivers.* School districts in member states may waive courses required for graduation if similar coursework has been completed in another school. Such waivers are not mandatory under the compact, but a school district must show reasonable justification to deny a waiver.

• *Exit exams.* Under the compact, a school district may accept the sending state's exit exams, achievement tests or other tests required for graduation instead of requiring the student to meet the testing requirements of the receiving state. States have flexibility to determine what tests they will accept or require the student to take.

• *Transfers during senior year.* If a student moves during the senior year and the receiving state is unable to make the necessary accommodations for required courses and exit exams, the two school districts must work together to obtain a diploma from the sending school so the student can graduate on time.

The compact does not address the quality of education or require a state to change any of its standards or education criteria. The Military Interstate Children's Compact Commission (MIC3) has created a variety of downloadable brochures, webinars and other resources to help parents and educators learn more about the Compact—See more at: *http://www.mic3.net.*

If a family has a concern about a provision of the compact as it relates to a child, it's best to contact the school first. Each installation has a school liaison to help work with schools to get questions answered or to provide information on next steps to take if concerns cannot be successfully resolved.

II. Narrative Description of Legal Authorities for This Rule

The legal authorities for this rule clarify the definition of children in military families covered by this rule, cover the protections afforded these children, and provide the authority for establishing the policies included in this rule for the DoD Education Activity:

(1) 10 U.S. Code 2164—Department of Defense Domestic Dependent Elementary and Secondary Schools. This citation states the Secretary of Defense may issue directives that the Secretary considers necessary for the effective operation of the school or the entire school system, outside of the authority given to the School Boards selected to oversee these schools.

(2) 20 U.S. Code—Education, Chapter 25A—Overseas Defense Dependents' Education § 921—Defense Dependents' Education System, and § 932—Definitions. This citation provides the scope of the authority of the Secretary of Defense to define programs and activities to provide a free public education through secondary school for dependents in overseas areas.

III. Summary of the Major Focus Points of This Rulemaking

The major provisions of this regulatory action include designating DoD liaisons to State Councils of member states of the Compact, designating the DoD ex-officio member to the Compact Commission, implementing the relevant school transition policies established in the Compact within the DoDEA school system, and establishing a committee within DoDEA to advise on compliance by DoDEA school.

(1) As required by the Compact, states establish Councils to oversee the implementation of the Compact within the state. The Compact prescribes membership of the State Council, which may include a representative from the military community within the state. Since this individual represents the interests of the military community to the State Council, the military representative can only fulfill a liaison role on the Council and must be designated by DoD. This rule defines the role for the military representative (§ 89.7(a)), along with the process (§ 89.7(b)) for coordinating the requests from State Commissioners and designating these military representatives.

(2) The Compact allows DoD to send an ex-officio representative to the Commission meetings, and also requires the DoD ex-officio representative to participate on the Executive Committee of the Commission. This rule provides guidelines for the DoD ex-officio representative (§ 89.7(d)).

(3) This rule establishes policies for DoDEA governing the transition of school age children in military families (§ 89.8 of this rule), which are equivalent to the following policies included in the Compact: Article IV—records and enrollment, Article V—placement and attendance, Article VI—eligibility for enrollment, and Article VII—graduation.

(4) This rule establishes a committee to advise DoDEA on compliance with provisions in § 89.8. The DoDEA Committee also provides input to the

ex-officio member of the Commission on issues arising from DoDEA school interactions with member States of the Compact, and acts as a counterpart to State Councils of member States. Policies for assigning a representative from the Military Departments to this committee are included in § 89.7(c).

IV. Cost and Benefit Analysis

There are no provisions in this proposed rule which are expected to increase costs for members of the public. Requirements included in this rule may require action to be taken by state education departments and local education agencies as a result of requirements of the state laws.

The cost to the Department are summarized below:

• (Military representative attending State Council meetings. State Council meetings are generally held at a central location for the state, and are expected to be held at least once per year. The military representative would be required, while on duty and at government expense, to travel to and attend the meeting. A meeting would be expected to demand an average of 1.5 days (travel and meeting time), which would cost an approximate average of $564 [1] in opportunity labor cost. Additionally, intrastate travel and per diem is expected to cost an approximate average of $334.[2] States vary with regards to the number of military representatives they have requested to attend; however, the estimated number of military representatives is 77.[3] Applying the approximate average costs per year provides $43,430 in opportunity labor costs and $25,720 in travel and per diem.

• Identifying, nominating and designating a military representative. DOD estimates approximately 76 hours [4] of administrative time to coordinate nominations per year, plus approximately 76 hours [5] to process, review, coordinate, sign and distribute the designation letters. The opportunity labor cost of coordination would be approximately $4,560 [6] and completing the designation letter, with accompanying documents, would be $4,400 [7] per year.

• Ex-officio representation to the Military Interstate Child Compact Commission (MIC3). This individual participates in the annual conference, executive committee meeting and other standing committee meetings and would cost DOD approximately $8,460 per year.[8]

Additionally, this proposed rule will direct DoDEA to transition children under specific policies. These are the same policies that are included in the Compact, Articles IV–VII, which have been shown to be cost-neutral (and perhaps a cost-benefit) when implemented by local education agencies within the states that are members of the Compact.[9] Essentially, schools are responsible for transitioning children, and the proposed rules, based upon the transition policies included in the Compact, provide a consistent approach that schools apply in member states to the Compact. Hence, there is less variability and uncertainty in the process. Applying these policies within DoDEA is expected to produce similar results, since these policies would apply to all children within the DoDEA school system (therefore applying a consistent policy regardless of the child), and many of these proposed policies represent the existing procedures used in DoDEA schools to transition students. The DoD committee to oversee the implementation of this rule within DoDEA is expected to cost approximately $3,250 per year [10] to administer and conduct meetings.

The benefits derived from DoD's participation in the Compact accrue to Service members and their families, particularly the 707,000 school-age children educated by local education agencies and DoDEA.[11] These benefits have not necessarily been quantified, but can be described in qualitative terms. Military moves are stressful for the entire family, and transitioning to a new school creates stresses because of uncertainty. Military children are confronted with unknown academic and social challenges, and their parents must overcome new administrative requirements to enroll them. The provisions included in the Compact provide relief for some of the administrative requirements faced by parents and the academic issues regularly experienced by military children who generally attend six-to-nine different schools between kindergarten and 12th grade.[12] The goal of the Compact is to replace the widely varying treatment of transitioning military students with a comprehensive approach that provides a uniform policy in every school district in every state that chooses to join. Through more uniform transition policies, military children have an opportunity to assimilate into their classes, extra-curricular activities and new social circles more quickly. Additionally the Compact recognizes the difficulties military children may have with being separated from a parent due to a military deployment, allowing for liberal absences for children to be with the deploying/returning parents.

The Compact Articles IV–VII were developed as a result of input from 17 representative national and state stakeholders who were asked to participate in a working group sponsored by the Council of State Governments, National Center for Interstate Compacts.[13] The majority of

[1] Cost estimated on the salary of a GS–14 step 5 without locality pay or percentage for benefits (average of $47 per hour) times approximately 12 hours.

[2] Cost of travel calculated at an average round trip requiring 300 miles times the 2015 mileage rate of $0.575 per mile (equals approximately $172), plus per diem costs of $129 per day (national estimate), plus proportional meals and incidentals for the second day of $33 ($162).

[3] Estimated number of total military representatives for the 50 member states and the District of Columbia, based on the average of number currently designated in states with military representatives (41 reps in 27 states).

[4] Estimate 3 hours of staff time to receive the request; relay the requirement to the designated Military Department and obtain approval; and provide the name to the Office of Secretary of Defense. Anticipate having to replace half of the military representatives each year (38).

[5] Estimate 2 hours of staff time to prepare the letter of designation and accompanying documents and obtain a signature from the Deputy Assistant Secretary of Defense for Military Community and Family Policy. Anticipate processing 38 letters of designation per year.

[6] Cost estimated on the salary of a GS–13 step 5, without locality pay or percentage for benefits (average of $40 per hour).

[7] Cost estimated on the salary of a GS–14 step 5 with locality pay for Washington DC, but no percentage for benefits (average of $58 per hour).

[8] Cost estimated on three trips per year, each involving 3 days, at a location outside of Washington DC. The labor cost is estimated on the salary of a GS–15 step 5 with locality pay for Washington DC (no benefits included) time 72 hours ($4,900), plus $3,560 for travel and per diem.

[9] Analysis accomplished by states as part of their legislative process showed that the provisions of the Compact supporting the transition of military children were fiscally neutral. Transition occurs regardless of having an organized process, and the provisions of the Compact were considered as providing consistent expectations and administrative procedures capable of reducing the cost of administering transition for military children.

[10] Estimated on two meetings (each two hours in length) per year, attended by 12 people with an average salary of a GS–14 step 5, with Washington DC locality pay (not including benefits); plus 8 hours of preparation time for the two meetings by a GS–14 step 5, with Washington DC locality pay.

[11] 2013 Demographic Profile of the Military Community, DMDC Active Duty Military Family File (September 2013), page 132.

[12] Council of State Governments, ''*Interstate Compact on Educational Opportunity for Military Children Legislative Resource Kit,*'' January 2008, page 1.

[13] Contributing individuals and groups included: National Association of Elementary School Principals; National Military Family Association; Military Child Education Coalition; U.S. Department of Education; National School Boards Association; National PTA; Office of Lt Governor Beverly Purdue, NC; Alabama State Senator;

their recommendations came from work that had previously been presented in studies, such as the Military Child Education Coalition's *Secondary Education Transition Study,* conducted for the U.S. Army in 2001, and the subsequent Memoranda of Agreement signed by nine school districts which addressed ''the timely transfer of records, systems to ease student transition during the first 2 weeks of enrollment, practices that foster access to extracurricular programs, procedures to lessen the adverse impact of moves of juniors and seniors, [and] variations in school calendars and schedules,'' among other recommendations.[14]

Regulatory Analysis

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

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

Sec. 202, Pub. L. 104–4, ''Unfunded Mandates Reform Act''

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4) requires agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2014, that threshold is approximately $141 million. This rule will not mandate any requirements for State, local, or tribal governments, nor will it affect private sector costs.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

The Department of Defense certifies that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. Therefore, the Regulatory Flexibility Act, as amended, does not require us to prepare a regulatory flexibility analysis.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

This rule does not impose reporting and record keeping requirements under the Paperwork Reduction Act of 1995.

Executive Order 13132, ''Federalism''

This rule was analyzed in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism''). It has been determined that it does not have sufficient Federalism implications to warrant the preparation of a Federalism summary impact statement. This rule has no substantial effect on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials. Nothing in this rule preempts any State law or regulation. Therefore, DoD did not consult with State and local officials because it was not necessary.

List of Subjects in 32 CFR Part 89

Children, Education, Interstate compact.

Accordingly 32 CFR part 89 is proposed to be added to read as follows:

PART 89—INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

Sec.

89.1 Purpose.
89.2 Applicability.
89.3 Definitions.
89.4 Policy.
89.5 Responsibilities.
89.6 Procedures.
89.7 Representatives to State Councils, the DoDEA Committee and MIC3.
89.8 Compact provisions.

Authority: 10 U.S.C. 2164, 20 U.S.C. 921–932.

§ 89.1 Purpose.

In accordance with section 539 of Public Law 111–84, this part establishes policy, assigns responsibilities, and provides procedures to implement the Interstate Compact on Educational Opportunity for Military Children (referred to in this part as the ''Compact'') within the DoD.

§ 89.2 Applicability.

This part applies to the Office of the Secretary of Defense, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD.

§ 89.3 Definitions.

These terms and their definitions are for the purposes of this part.

504 plan. A plan required pursuant to 29 U.S.C. 794 specifying the modifications and accommodations for a child with a disability to meet the individual educational needs of that child as adequately as the needs of children without disabilities are met. The plans can include accommodations such as wheelchair ramps, blood sugar monitoring, an extra set of textbooks, a peanut-free lunch environment, home instruction, or a tape recorder or keyboard for taking notes.

Children of military families. School-aged children who are enrolled in kindergarten through twelfth grade and are in the households of Service members who:

(1) Are on active duty, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. 1211;

(2) Are active duty or veterans who are severely wounded, ill, or injured; or

(3) Die on active duty or as a result of injuries sustained on active duty.

(4) Children of military members who are severely wounded, ill, or injured retain this designation for 1 year after discharge or retirement. Children of military members who die on active duty or as a result of injuries sustained on active duty, retain this designation for 1 year after death.

Deployment. The period 1 month prior to the military members' departure from their home station on military orders through 6 months after return to their home station.

Department of Defense Education Activity (DoDEA) Committee. A DoD committee established pursuant to this part by Director of DoDEA to advise DoDEA on compliance with provisions in § 89.8 by DoDEA schools. The DoDEA Committee also provides input to the ex-officio member of the Commission on issues arising from DoDEA school interactions with member States of the Compact, and acts as a counterpart to State Councils of member States.

National School Superintendents Association (Local School Superintendent); National Education Association; Military Impacted Schools Association; Maryland Department of Education; Ofc of the Under Secretary of Defense; California Department of Education; Nevada State Senator; and the Florida Department of Education; Education Commission of the States.

[14] Kathleen F. Berg, ''*Easing Transitions of Military Dependents into Hawaii Public Schools: An Invitational Education Link,*'' Journal of Invitational Theory and Practice Volume 14, 2008, page 44.

Education records. Those official records, files, and data directly related to a child and maintained by the school or local educational agency (LEA) or state educational agency (SEA), including but not limited to, records encompassing all the material kept in the child's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs (IEPs).

Ex-officio member of the Commission. Non-voting member of the Commission who may include, but not be limited to, members of the representative organizations of military family advocates, LEA officials, parent and teacher groups, the DoD, the Education Commission of the State, the Interstate Agreement on the Qualification of Educational Personnel, and other interstate compacts affecting the education of children of military members.

Extracurricular activity. A voluntary activity sponsored by the school or LEA or SEA or an organization sanctioned by the LEA or SEA. Extracurricular activities include but are not limited to preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.

IEP. When a child is identified as a child with disabilities in accordance with Individuals With Disabilities Education Act (IDEA), he or she must have a written document that describes the special education supports and services the child will receive. The IEP is developed by a team that includes the child's parents and school staff.

Interstate Compact on Education Opportunity for Military Children (the Compact). An agreement approved through State legislation that requires member States to follow provisions supporting the transition of children of military families between school systems in member States. As part of joining the Compact, States agree to participate in the Commission and pay dues to the Commission to support its oversight of the Compact.

LEA. A public authority legally constituted by the State as an administrative agency to provide control of and direction for kindergarten through twelfth grade public educational institutions. For the purpose of administering the provisions of the Compact in § 89.8 of this part, DoDEA school districts as defined in 20 U.S.C. 932 are equivalent to an LEA.

Member State. A State that has enacted the Compact.

Military Interstate Children's Compact Commission (MIC3). The MIC3, also known as the Interstate Commission on Educational Opportunity for Military Children (sometimes referred to as the ''Interstate Commission'' or ''the Commission''), is the governing body of the Compact composed of representatives from each member State, as well as various ex-officio members. The Commission provides general oversight of the agreement, creates and enforces rules governing the Compact, and promotes training and compliance with the Compact. Each member State will be allowed one vote on Compact matters, and the Commission will provide the venue for solving interstate issues and disputes.

Military Family Education Liaison. Individual appointed or designated by State Council of each member state to assist military families and the State in facilitating the implementation of the Compact. Military members and DoD civilian employees cannot perform this function.

Military installation. A base, camp, post, station, yard, center, homeport facility for any ship, or other activity under DoD jurisdiction, including any leased facility. (This term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.)

Military representative to a State Council. Individual designated by the Deputy Assistant Secretary of Defense for Military Community and Family Policy (DASD(MC&FP)) to perform the duties and responsibilities defined in § 89.5 of this part. The military representative is responsible for representing the interest of the DoD in fostering easier transition of children of military families according to their designation (installation representative, Military Department representative or statewide representative). The military representative will be a military member or DoD civilian who can remain in the position for at least 2 years and who has a direct interface with the State education system as part of official duties or has supervisory responsibility for those who do.

Military representative to the DoDEA Committee. Individual nominated to represent all four Services by the Office of the Assistant Secretary of the Army for Manpower and Reserve Affairs (OASA(M&RA)), Office of the Assistant Secretary of the Navy for Manpower and Reserve Affairs (OASN(M&RA)), or Office of the Assistant Secretary of the Air Force for Manpower and Reserve Affairs (OASAF(M&RA)) on a rotational basis and appointed by the DASD(MC&FP) for a 2-year term. Because DoDEA is a DoD Component the military representative may act as a full participant in the DoDEA Committee.

Receiving State. The State to which a child of a military family is sent, brought, or caused to be sent or brought.

SEA. A public authority similar to an LEA, legally constituted by the State as an administrative agency to provide control of and direction for kindergarten through twelfth grade public educational institutions for the entire State.

Sending State. The State from which a child of a military family is sent, brought, or caused to be sent or brought.

State. State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other U.S. territory or possession. For purposes of administering the provisions of the Compact in § 89.8 of this part, DoD is considered a State and DoDEA is considered the equivalent of a State department of education for DoD.

State Council. A body that coordinates among government agencies, LEAs, and military installations concerning the member State's participation in and compliance with the Compact and the Commission activities. A member State may determine the membership of its own Council, but membership must include at least: The State superintendent of education; superintendent of a school district with a high concentration of military children; representative (as a liaison) from a military installation; one representative each from the legislative and executive branches of State government; and other offices and stakeholder groups the State Council deems appropriate.

Transition.

(1) The formal and physical process of transferring from school to school; or

(2) The period of time in which a child moves from a school in the sending State to a school in the receiving State.

Veteran. A person who served in the military and who was discharged or released from the military under conditions other than dishonorable.

§ 89.4 Policy.

In accordance with Section 539 of Public Law 111–84, ''National Defense Authorization Act for Fiscal Year 2010'' and DoD 5500.07–R, ''Joint Ethics Regulations (JER)'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/*

550007r.pdf), it is DoD policy to support the intent of the Compact by reducing the difficulty children of military families (referred to in this part as ''children'' or ''the child'') have in transferring between school systems because of frequent moves and deployment of their parents. DoD will support the Compact by:

(a) Designating military liaisons to State Councils of member States, the DoDEA Committee, and the MIC3.

(b) Implementing the intent of the Compact in the DoDEA to ensure:

(1) Timely enrollment of children in school so they are not penalized due to:

(i) Late or delayed transfers of educational records from the previous school district(s); or

(ii) Differences in entrance or age requirements.

(2) Placement of children in educational courses and programs, including special educational services, so they are not penalized due to differences in attendance requirements, scheduling, sequencing, grading, or course content.

(3) Flexible qualification and eligibility of children so they can have an equitable chance at participation in extracurricular, academic, athletic, and social activities.

(4) Graduation within the same timeframe as the children's peers.

(c) Promoting through DoDEA and the Military Departments:

(1) Flexibility and cooperation among SEAs or LEAs, DoDEA, Military Departments, parents, and children to achieve educational success.

(2) Coordination among the various State agencies, LEAs, and military installations regarding the State's participation in the Compact.

§ 89.5 Responsibilities.

(a) Under the authority, direction, and control of the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), the Assistant Secretary of Defense for Manpower and Reserve Affairs (ASD(M&RA)) oversees the implementation of this part.

(b) Under the authority, direction, and control of the ASD (M&RA), the DASD(MC&FP):

(1) Designates military representatives as liaisons to State councils, nominated by the Secretaries of the Military Departments by the procedures outlined in § 89.7 of this part.

(2) Designates the DoD ex-officio member of MIC3, insofar as DoD is invited to do so by MIC3.

(3) Maintains a roster of designated liaisons to State councils in accordance with 32 CFR part 310.

(4) Monitors issues arising under the Compact:

(i) Affecting children of military families attending and transferring between member State schools; and

(ii) the implementation of § 89.8 of this part, affecting children of military families transferring between member state schools and DoDEA's schools (consisting of the Department of Defense Schools (DoDDS)—Europe, DoDDS—Pacific, and the Domestic Dependent Elementary and Secondary Schools (DDESS)).

(c) Under the authority, direction, and control of ASD (M&RA), the Director, DoDEA:

(1) To the extent allowable by 10 U.S.C. 2164 and 20 U.S.C. 921–932, adjusts operating policies and procedures issued pursuant to DoD Directive 1342.20, ''Department of Defense Education Activity (DoDEA)'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/134220p.pdf*) to implement the provisions of the Compact described in § 89.8 of this part.

(2) Informs boards and councils, described in DoD Instruction 1342.15, ''Educational Advisory Committees and Councils'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/134215p.pdf*) and DoD Instruction 1342.25, ''School Boards for Department of Defense Domestic Dependent Elementary and Secondary Schools (DDESS)'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/134225p.pdf*), of the Compact provisions in § 89.8 of this part and the DoDEA administration of these provisions.

(3) Addresses disputes over provisions in § 89.8 of this part between member States and DoDEA. When differences cannot be resolved with a member State, works with MIC3 to resolve these disputes.

(4) Establishes the DoDEA Committee to review compliance with the provisions in § 89.8 of this part and to address issues raised by the Secretaries of the Military Departments concerning the implementation of these provisions.

(5) Ensures all personally identifiable information (PII) is collected, maintained, disseminated, and used in accordance with 32 CFR part 310.

(6) Ensures that DoDEA schools comply with § 89.8 and that DoDEA school-level officials inform DoDEA students transferring to schools in member States of the benefits extended by receiving States under the Compact.

(d) The Secretaries of the Military Departments:

(1) Nominate military representatives, in accordance with the procedures outlined in § 89.7 of this part, for designation as liaisons to State Councils by the DASD(MC&FP) when such DoD liaison is requested.

(2) Establish departmental policies and procedures to inform military communities of:

(i) The provisions of this part as it affects children of military families attending and transferring between member State schools; and

(ii) the provisions in § 89.8 of this part concerning students transferring between DoDEA and member State schools.

(3) Procedures to resolve issues or challenges raised by parents concerning the provisions of § 89.8 of this part.

§ 89.6 Procedures.

DoD implements policy in this part by:

(a) Establishing a committee within DoDEA (referred to in this part as the ''DoDEA Committee'').

(b) Designating military representatives to the State Councils of the member States and the DoDEA Committee in accordance with procedures in § 89.7.

(c) Designating the ex-officio member to MIC3 in accordance with § 89.5 and § 89.7.

(d) Ensuring DoDEA compliance with the selected provisions of the Compact described in § 89.8.

§ 89.7 Representatives to State Councils, the DoDEA Committee and MIC3.

(a) *Military Representatives as Liaisons to State Councils.* In accordance with section 3–201 of DoD 5500.07–R, military representatives to State Councils will:

(1) Be a military member or a civilian employee of DoD who has a direct interface with the State education system as part of official duties or has supervisory responsibility for those who do.

(2) Only represent DoD interests (not the interests of the State Council), and consequently may not:

(i) Engage in management or control of the State Council (therefore, may not vote or make decisions on daily administration of council);

(ii) Endorse or allow the appearance of DoD endorsement of the State Council or its events, products, services, or enterprises;

(iii) Represent the State Council to third parties; or

(iv) Represent the State Council to the U.S. Government, as prohibited by federal criminal statutes.

(3) Make clear to the State Council that:

(i) The opinions expressed by the representative do not bind DoD or any DoD Component to any action.

(ii) If included on State Council Web sites, all references to the representative by name or title must indicate that they are the ''Military Representative'' as opposed to a council member.

(4) Notify the chain of command of issues requiring policy decisions or actions requested of the military community within the State.

(5) When called upon to act as the spokesperson for one or more than one installation:

(i) Get feedback from the designated points of contact at each military installation within his or her responsibility.

(ii) Coordinate proposed input to the State Council with the appropriate points of contact for each military installation within his or her responsibility.

(iii) Act as a conduit for information between the State Council and each military installation within his or her responsibility.

(iv) Provide feedback through the chain of command to the points of contact for each military installation within his or her responsibility and, as appropriate, to the OASA(M&RA), the OASN(M&RA), or the OASAF(M&RA).

(6) Notify the State Council and the appropriate Deputy Assistant Secretary of the Military Department listed in paragraph (a)(5)(iv) of this section, through the chain of command, of reassignment or other circumstances that would require a replacement.

(b) *Nomination Process for Military Representatives to State Councils.*

(1) In accordance with DoD 5500.07–R, military representatives are nominated by the Military Departments and designated by the DASD(MC&FP), not by State officials. Depending on the number of military representatives required by State statute, designating representatives to a State Council will be accomplished according to the processes outlined in Table 1:

TABLE 1—PROCESS FOR DESIGNATING MILITARY REPRESENTATIVES TO STATE COUNCILS

If State statute concerning military representatives provides for:	The State Commissioner contacts:	Who requests a selection be made by:	Whereupon the official written designation is made by:
One representative for all military children in the State.	DASD(MC&FP)	OASA(M&RA), OASN(M&RA), or OASAF(M&RA) responsible for providing a representative for the State listed in Table 2.	DASD(MC&FP).
One representative for each Military Service.	DASD(MC&FP)	OASA(M&RA), OASN(M&RA), and OASAF(M&RA).	DASD(MC&FP).
One representative for each military installation in the State.	DASD(MC&FP)	OASA(M&RA), OASN(M&RA) and OASAF(M&RA).	DASD(MC&FP).

(2) When there is more than one military representative to a State Council (*e.g.,* one per installation or one per Military Department represented in the State), the individual appointed by the responsible Military Department (Table 2) will serve as the lead military representative when DoD must speak with a single voice.

(3) In circumstances where the State requests an individual by name, the DASD(MC&FP) will forward the request to the individual's Military Department for consideration. If that Military Department is different from the one designated in Table 2, the DASD(MC&FP) will first obtain the concurrence of the responsible Military Department.

(4) Military representatives are expected to serve a minimum of 2 years. When notified by the incumbent military representative of the need for a replacement, the OASA(M&RA), OASN(M&RA), or OASAF(M&RA) will inform DASD(MC&FP) of the request.

(5) In accordance with the Compact, State officials appoint or designate the Military Family Education Liaison for the State. Service members and DoD civilians cannot be appointed or designated to fill this position for the State.

TABLE 2—MILITARY DEPARTMENT AREAS OF AUTHORITY FOR SELECTING A SINGLE MILITARY REPRESENTATIVE FOR THE STATE COUNCIL

Military Department	Areas of authority
Army	Alabama, Alaska, Colorado, Georgia, Hawaii, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Missouri, New York, Oklahoma, Pennsylvania, South Carolina, Texas, Vermont, Washington, West Virginia, Wisconsin.
Navy	American Samoa, California, Connecticut, District of Columbia, Florida, Guam, Maine, Mississippi, New Hampshire, North Carolina, Northern Marianas, Oregon, Puerto Rico, Rhode Island, Tennessee, Virginia, Virgin Islands.
Air Force	Arizona, Arkansas, Delaware, Idaho, Illinois, Massachusetts, Montana, Nebraska, Nevada, New Jersey, New Mexico, North Dakota, Ohio, South Dakota, Utah, Wyoming.

(c) *Military Representative to the DoDEA Committee.* Membership of the DoDEA Committee will include a representative from one of the Military Services to represent all four Services. OASA(M&RA), OASN(M&RA), or OASAF(M&RA) will nominate a representative on a rotational basis who will be designated for a 2-year term by the DASD(MC&FP).

(d) *Ex-Officio Member to MIC3.* In accordance with section 3–201 of DoD 5500.07–R, the DoD ex-officio member to the Commission must:

(1) Be a military member or a civilian employee of DoD who can remain in the position for at least 2 years and who has a direct interface with DoDEA and the U.S. public education system as part of official duties or has supervisory responsibility for those who do.

(2) Attend as a liaison meetings of MIC3, its Executive Committee, and other standing committees where requested by the Commission.

(3) Only represent DoD interests (not the interests of MIC3), and consequently may not:

(i) Engage in management or control of MIC3 (therefore, may not vote or make decisions on daily administration of MIC3);

(ii) Endorse or allow the appearance of DoD endorsement of MIC3, or its events, products, services, or enterprises;

(iii) Represent the Commission to third parties; or

(iv) Represent MIC3 to the U.S. Government, as prohibited by criminal statutes.

(4) Make clear to MIC3 that:

(i) The opinions expressed by the incumbent do not bind DoD or any DoD Component to any action.

(ii) If included on MIC3 Web sites, all references to the incumbent by name or title must indicate that they are the ''DoD Ex-Officio Member'' as opposed to a MIC3 member.

(5) Notify the chain of command of issues requiring policy decisions or actions requested of DoD.

§ 89.8 Compact provisions.

(a) *DoDEA Area School Districts Relationship With SEAs or LEAs in Member States.*

(1) For the purposes of DoD's implementation of the Compact in the schools it operates, DoDEA's area offices (Department of Defense Dependent Schools—Europe, Department of Defense Dependent Schools—Pacific, and the Domestic Dependent Elementary and Secondary Schools) and their schools are considered as the equivalent of LEAs and SEAs, respectively.

(2) Each DoDEA area acts as the ''receiving LEA'' and ''sending LEA'' in working with LEAs or SEAs in member States.

(b) *Articles IV Through VII of the Compact.* This section describes the specific duties that DoDEA's LEAs have as ''sending'' or ''receiving'' LEAs. DoDEA's duties under this section will reciprocate the duties assumed by member State LEAs or SEAs to children of military families, as expressed by their respective State's implementation of the Compact Articles IV through VII. DoDEA will implement the provisions described below, which, while retaining the intent of the Compact, have been modified as needed in the DoDEA context.

(1) *Article IV: Education Records and Enrollment*

(i) *Unofficial or ''Hand-Carried'' Education Records*

(A) If official education records cannot be released to the parents for transfer, the DoDEA custodian of the records, as the sending LEA shall provide to the parent a complete set of unofficial education records.

(B) Upon receipt of the unofficial education records, the DoDEA school, as the school in the receiving LEA shall enroll and appropriately place the child as quickly as possible based on the information in the unofficial records, pending validation by the official records.

(ii) *Official Education Records or Transcripts*

(A) The DoDEA school, acting as the receiving LEA shall request the child's official education record from the school in the sending State at the same time as DoDEA school enrolls and conditionally places the child.

(B) Upon receipt of the request for a child's records, the school in DoDEA, acting as the sending LEA will provide the child's official education records to the school in the receiving State, within 10 work days. If there is a designated school staff break, records will be provided as soon as possible; however, the time will not exceed 10 work days after the return of staff. DoDEA will initiate actions to meet these deadlines without violating the disclosure rules of the Privacy Act, 5 U.S.C. 552a.

(iii) *Immunizations*

(A) Parents have 30 days from the date of enrolling their child in a DoDEA school to have their child(ren) immunized in accordance with DoDEA's immunization requirements, as the receiving LEA.

(B) For a series of immunizations, parents must begin initial vaccinations of their child(ren) within 30 days.

(iv) *Entrance Age*

(A) At the time of transition and regardless of the age of the child, the DoDEA school, acting as the receiving LEA, shall enroll the transitioning child-at the -grade level—as the child's grade level (*i.e.* in kindergarten through grade 12) in the sending state's LEA.

(B) A child who has satisfactorily completed the prerequisite grade level in the sending state's LEA will be eligible for enrollment in the next higher grade level in DoDEA school, acting as the receiving LEA, regardless of the child's age.

(C) To be admitted to a school in the receiving State, the parent or guardian of a child transferring from a DoDEA (sending) LEA must provide:

(*1*) Official military orders showing the military member or the member's spouse was assigned to the sending State or commuting area of the State in which the child was previously enrolled. If the child was residing with a guardian other than the military member during the previous enrollment, proof of guardianship (as specified in the Compact) should be provided by the parent or guardian to the receiving LEA or SEA to establish eligibility under the Compact.

(*2*) An official letter or transcript from the sending school authority that shows the student's record of attendance, academic information, and grade placement.

(*3*) Evidence of immunization against communicable diseases.

(*4*) Evidence of date of birth.

(2) *Article V: Placement and Attendance*

(i) *Course Placement*

(A) As long as the course is offered by DoDEA, as the receiving LEA, it shall honor placement of a transfer student in courses based on the child's placement or educational assessment in the sending State school.

(B) Course placement includes, but is not limited to, Honors, International Baccalaureate, Advanced Placement, vocational, technical, and career pathways courses.

(C) Continuing the child's academic program from the previous school and promoting placement in academically and career challenging courses shall be a primary consideration when DoDEA considers the placement of a transferring child.

(D) DoDEA, acting as the receiving LEA, may perform subsequent evaluations to ensure the child's appropriate course placement.

(ii) *Educational Program Placement*

(A) As long as the program is offered by DoDEA, acting as a receiving LEA, it will honor placement of the child in educational programs based on current educational assessments and placement in like programs in the sending State. Such programs include, but are not limited to, gifted and talented programs and English language learners.

(B) The receiving State school may perform subsequent evaluations to ensure the child's appropriate educational program placement.

(iii) *Special Education Services*

(A) DoDEA, acting as the receiving LEA, will initially provide comparable services to a child with disabilities based on his or her current IEP in compliance with 20 U.S.C. chapter 33, also known and referred to in this part as the ''Individuals with Disabilities Education Act (IDEA),'' as amended, and the requirements of Executive Order 13160. DoDEA may perform subsequent evaluations to ensure the child's appropriate placement consistent with IDEA.

(B) DoDEA, acting as the receiving LEA, will make reasonable accommodations and modifications to address the needs of incoming children with disabilities, in compliance with the requirements of 29 U.S.C. 794 and E.O.

13160, and subject to an existing 504 plan to provide the child with equal access to education.

(iv) *Placement Flexibility.* DoDEA's administrative officials must have flexibility in waiving course or program prerequisites or other preconditions for placement in courses or programs offered under the jurisdiction of DoDEA.

(v) *Absences Related to Deployment Activities.* A child whose parent or legal guardian is an active duty Service member and has been called to duty for, is on leave from, or has immediately returned from deployment to a combat zone or combat support posting, will be granted additional excused absences under governing DoDEA rules.

(3) *Article VI: Eligibility for Enrollment*

(i) *Eligibility in DoDEA Schools.* Eligibility of dependents of military members is governed by the laws in 10 U.S.C. 2164 and their implementing regulations. Only children who are eligible to attend DoDEA schools may do so, regardless of their transition status.

(ii) *Eligibility for Extracurricular Participation.* DoDEA, acting as the receiving LEA, will facilitate the opportunity for transitioning children's inclusion in extracurricular activities, regardless of application deadlines, to the extent the children are otherwise qualified.

(4) *Article VII: Graduation.* To facilitate the child's on-time graduation, DoDEA will incorporate the following procedures:

(i) *Waiver Requirements*

(A) DoDEA administrative officials will waive specific courses required for graduation if similar course work has been satisfactorily completed in another LEA or provide reasonable justification for denial.

(B) If DoDEA, as a receiving LEA, does not grant a waiver to a child who would qualify to graduate from the sending school, DoDEA will provide an alternative means of acquiring required coursework so that graduation may occur on time.

(C) If DoDEA, as the receiving LEA, requires a graduation project, volunteer community service hours, or other DoDEA specific requirement, DoDEA may waive those requirements.

(ii) *Exit Exams*

(A) DoDEA, as a receiving LEA, must:

(*1*) Accept exit or end-of-course exams required for graduation from the sending State.

(*2*) Accept national norm-referenced achievement tests.

(*3*) Provide alternative testing in lieu of testing requirements for graduation in the receiving from a DoDEA school.

(B) If the alternatives in paragraph (b)(2)(i) of this section cannot be accommodated by DoDEA as the receiving LEA for a child transferring in his or her senior year, then the provisions of paragraph (b)(1)(iv)(C) of this section will apply.

(iii) *Transfers During Senior Year*

(A) If a child transferring at the beginning or during his or her senior year is ineligible to graduate from DoDEA, as the receiving LEA, after all alternatives have been considered, DoDEA will request a diploma from the sending LEA or SEA. DoDEA will ensure the receipt of a diploma from the sending LEA or SEA, if the child meets the graduation requirements of the sending LEA or SEA.

(B) If one of the States in question is not a member of this Compact, DoDEA, as a receiving state, will use best efforts to facilitate a transferring child's on-time graduation in accordance with paragraphs (b)(1)(iv)(A) and (b)(1)(iv)(B) of this section.

Dated: March 2, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016–04970 Filed 3–4–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2015–1029]

RIN 1625–AA00

Safety Zones; Coast Guard Sector Ohio Valley Annual and Recurring Safety Zones Update

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend and update its list of recurring safety zone regulations that take place in the Coast Guard Sector Ohio Valley area of responsibility (AOR). This notice informs the public of regularly scheduled events that require additional safety measures through establishing a safety zone. Through this notice the current list of recurring safety zones is proposed to be updated with revisions, additional events, and removal of events that no longer take place in Sector Ohio Valley's AOR. When these safety zones are enforced, vessel traffic is restricted from specified areas. Additionally, this one proposed rulemaking project reduces administrative costs involved in producing separate proposed rules for each individual recurring safety zone and serves to provide notice of the known recurring safety zones throughout the year.

DATES: Comments and related material must be received by the Coast Guard on or before June 6, 2016.

ADDRESSES: You may submit comments identified by docket number USCG–2015–1029 using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email Petty Officer James Robinson, Sector Ohio Valley, U.S. Coast Guard; telephone (502) 779–5347, email *James.C.Robinson@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, Purpose, and Legal Basis

The legal basis for the 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; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to define regulatory safety zones.

The Captain of the Port (COTP) Ohio Valley is proposing to establish, amend, and update its current list of recurring safety zone regulations.

These safety zones are proposed to be added, amended, and updated to the list of annually recurring safety zones under 33 CFR 165.801 in Table no. 1 for annual safety zones in the COTP Ohio Valley zone. The Coast Guard will address all comments accordingly, whether through response, additional revision to the regulation, or otherwise. Additionally, these recurring events are provided to the public through local avenues and planned by the local communities.

The current list of annual and recurring safety zones occurring in Sector Ohio Valley's AOR is published under 33 CFR part 165.801. That most recent list was created August 18, 2015 through the rulemaking 80 FR 49911, which finalized the interim rule

published April 22, 2014, 79 FR 22398, which received no adverse comments. The August 18, 2015 rulemaking established 33 CFR 165.801 creating the current comprehensive list of recurring safety zones.

The Coast Guard is amending and updating the safety zone regulations under 33 CFR part 165 to include the most up to date list of recurring safety zones for events held on or around navigable waters within Sector Ohio Valley's AOR. These events include air shows, fireworks displays, and other marine related events requiring a limited access area restricting vessel traffic for safety purposes. The current list under 33 CFR 165.801 requires amending to provide new information on existing safety zones, updating to include new safety zones expected to recur annually or biannually, and to remove safety zones that are no longer required. Issuing individual regulations for each new safety zone, amendment, or removal of an existing safety zone creates unnecessary administrative costs and burdens. This single proposed rulemaking will considerably reduce administrative overhead and provides the public with notice through publication in the **Federal Register** of the upcoming recurring safety zone regulations.

The Coast Guard encourages the public to participate in this proposed rulemaking through the comment process so that any necessary changes can be identified and implemented in a timely and efficient manner.

III. Discussion of the Rule

33 CFR part 165 contains regulations establishing limited access areas to restrict vessel traffic for the safety of persons and property. Section 165.801 establishes recurring safety zones to restrict vessel transit into and through specified areas to protect spectators, mariners, and other persons and property from potential hazards presented during certain events taking place in Sector Ohio Valley's AOR. This section requires amendment from time to time to properly reflect the recurring safety zone regulations in Sector Ohio Valley's AOR. This proposed rule amends and updates Section 165.801 replacing the current Table 1 for Sector Ohio Valley.

Additionally, this proposed rule adds 13 new recurring safety zones and removes 6 safety zones.

Thirteen new recurring safety zones are proposed to be added under the new Table 1 of § 165.801 for Sector Ohio Valley, as follows:

Date	Event/sponsor	Ohio Valley location	Regulated area
1 day—Last weekend in June or first weekend in July.	Riverview Park Independence Festival	Louisville, KY	Ohio River, Mile 618.5–619.5 (Kentucky).
1 day—First weekend in June	Bellaire All-American Days	Bellaire, OH	Ohio River, Mile 93.5–94.5 (Ohio).
2 days—Second weekend of June	Rice's Landing Riverfest	Rices Landing, PA	Monongahela River, Mile 68.0–68.8 (Pennsylvania).
1 day—Second full week of August	PA FOB Fireworks Display	Pittsburgh, PA	Allegheny River, Mile 0.8–1.0 (Pennsylvania).
1 day—Third week of August	Beaver River Regatta Fireworks	Beaver, PA	Ohio River, Mile 25.2–25.8 (Pennsylvania).
1 day—Fourth or Fifth of July	City of Cape Girardeau July 4th Fireworks Show on the River.	Cape Girardeau, MO.	Upper Mississippi River, Mile 50.0–52.0 (Missouri).
Last Sunday in May	Friends of Ironton	Ironton, OH	Ohio River, Mile 326.7–327.7 (Ohio).
July 4th	Greenup City	Greenup, KY	Ohio River, Mile 335.2–336.2 (Kentucky).
July 4th	Middleport Community Association	Middleport, OH	Ohio River, Mile 251.5–252.5 (Ohio).
Second Saturday in September	Ohio River Sternwheel Festival Committee fireworks.	Marietta, OH	Ohio River, Mile 171.5–172.5 (Ohio).
July 4th	People for the Point Party in the Park	South Point, OH	Ohio River, Mile 317–318 (Ohio).
1 day—Friday before Thanksgiving	Kittanning Light Up Night Firework Display.	Kittanning, PA	Allegheny River, Mile 44.5–45.5 (Pennsylvania).
First Saturday in October	West Virginia Motor Car Festival	Charleston, WV	Kanawha River, Mile 58–59 (West Virginia).

This proposed rule removes the following 6 safety zone regulations from the existing Table 1 Part of § 165.801 for Sector Ohio Valley, as follows:

Date	Event/sponsor	Ohio Valley location	Regulated area
1 day—July 4th	Downtown Henderson Project/Henderson Independence Bank Fireworks.	Henderson, KY	Ohio River, Mile 803.5–804.5 (Kentucky).
1 day—First or second weekend in October.	Zambelli Fireworks/American Pyrotechnic Association Annual Convention Fireworks Display.	Louisville, KY	Ohio River, Miles 602.0–606.0 (Kentucky).
1 day—July 4th	Lake Guntersville Chamber of Commerce/Lake Guntersville 4th of July Celebration.	Guntersville, AL	Tennessee River, Mile 356.0–358.0 (Alabama).
1 day—July 3rd or the weekend before July 3rd if the 3rd is on a weekday.	City of Clarksville/Clarksville Independence Day Fireworks.	Clarksville, TN	Cumberland River, Mile 103.0–105.0 (Tennessee).
1 day—Labor Day weekend	Knoxville Tourism and Sports Corporation/Boomsday Festival.	Knoxville, TN	Tennessee River, Mile 647.0–648.0 (Tennessee).
1 day—Friday after Thanksgiving	Chattanooga Presents/Grand Illumination.	Chattanooga, TN	Tennessee River, Mile 463.0–469.0 (Tennessee).

The effect of this proposed rule will be to restrict general navigation in the safety zone during the event. Vessels intending to transit the designated waterway through the safety zone will only be allowed to transit the area when the COTP Ohio Valley, or designated representative, has deemed it safe to do so or at the completion of the event. The proposed annually recurring safety zones are necessary to provide for the safety of life on navigable waters during the events.

IV. Regulatory Analyses

We developed this proposed 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 proposed 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.

The Coast Guard expects the economic impact of this proposed rule to be minimal, therefore a full regulatory evaluation is unnecessary. This proposed rule establishes safety zones limiting access to certain areas under 33 CFR part 165 within Sector Ohio Valley's AOR. The effect of this proposed rulemaking will not be significant because these safety zones are limited in scope and duration. Additionally, the public is given advance notification through local forms of notice, the **Federal Register**, and/or Notices of Enforcement and thus will be able to plan operations around the safety zones in advance. Deviation from the safety zones established through this proposed rulemaking may be requested from the appropriate COTP and requests will be considered on a case-by-case basis. Broadcast Notices to Mariners and Local Notices to Mariners will also inform the community of these safety zones so that they may plan accordingly for these short restrictions on transit. Vessel traffic may request permission from the COTP Ohio Valley or a designated representative to enter the restricted area.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601 through 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.

This proposed rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit the safety zone areas during periods of enforcement. The safety zones will not have a significant economic impact on a substantial number of small entities because they are limited in scope and will be in effect for short periods of time. Before the enforcement period, the Coast Guard COTP will issue maritime advisories widely available to waterway users. Deviation from the safety zones established through this proposed rulemaking may be requested from the appropriate COTP and requests will be considered on a case-by-case basis.

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 proposed 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 proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 through 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 through 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 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 is categorically excluded under

section 2.B.2, figure 2–1, paragraph (34(g) of the Instruction because it involves establishment of safety zones. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

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

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

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Amend § 165.801 by revising table 1 to read as follows:

§ 165.801 Annual fireworks displays and other events in the Eighth Coast Guard District requiring safety zones.

* * * * *

TABLE 1 OF § 165.801—SECTOR OHIO VALLEY ANNUAL AND RECURRING SAFETY ZONES

Date	Sponsor/name	Location	Safety zone
1. Multiple days—April through November.	Pittsburgh Pirates/Pittsburgh Pirates Fireworks.	Pittsburgh, PA	Allegheny River, Mile 0.2–0.8 (Pennsylvania).
2. Multiple days—April through November.	Cincinnati Reds/Cincinnati Reds Season Fireworks.	Cincinnati, OH	Ohio River, Mile 470.1–470.4; extending 500 ft. from the State of Ohio shoreline (Ohio).
3. 2 days—Third Friday and Saturday in April.	Thunder Over Louisville/Thunder Over Louisville.	Louisville, KY	Ohio River, Mile 602.0–606.0 (Kentucky).
4. Last Sunday in May	Friends of Ironton	Ironton, OH	Ohio River, Mile 326.7–327.7 (Ohio).
5. 3 days—Third weekend in April	Henderson Tri-Fest/Henderson Breakfast Lions Club.	Henderson, KY	Ohio River, Mile 803.5–804.5 (Kentucky).
6. 1 day—A Saturday in July	Paducah Parks and Recreation Department/Cross River Swim.	Paducah, KY	Ohio River, Mile 934.0–936.0 (Kentucky).
7. 1 day—First weekend in June	Bellaire All-American Days	Bellaire, OH	Ohio River, Mile 93.5–94.5 (Ohio).
8. 2 days—Second weekend of June	Rice's Landing Riverfest	Rices Landing, PA	Monongahela River, Mile 68.0–68.8 (Pennsylvania).
9. 1 day—First Sunday in June	West Virginia Symphony Orchestra/Symphony Sunday.	Charleston, WV	Kanawha River, Mile 59.5–60.5 (West Virginia).
10. 1 day—Saturday before 4th of July	Riverfest Inc./Saint Albans Riverfest	St. Albans, WV	Kanawha River, Mile 46.3–47.3 (West Virginia).
11. 1 day—4th July	Greenup City	Greenup, KY	Ohio River, Mile 335.2–336.2 (Kentucky).
12. 1 day—4th July	Middleport Community Association	Middleport, OH	Ohio River, Mile 251.5–252.5 (Ohio).
13. 1 day—4th July	People for the Point Party in the Park	South Point, OH	Ohio River, Mile 317–318 (Ohio).
14. 1 day—Last weekend in June or first weekend in July.	Riverview Park Independence Festival	Louisville, KY	Ohio River, Mile 618.5–619.5 (Kentucky).
15. 1 day—Third or fourth week in July	Upper Ohio Valley Italian Heritage Festival/Upper Ohio Valley Italian Heritage Festival Fireworks.	Wheeling, WV	Ohio River, Mile 90.0–90.5 (West Virginia).
16. 1 day—4th or 5th of July	City of Cape Girardeau July 4th Fireworks Show on the River.	Cape Girardeau, MO.	Upper Mississippi River, Mile 50.0–52.0.
17. 1 day—Third or fourth of July	Harrah's Casino/Metropolis Fireworks	Metropolis, IL	Ohio River, Mile 942.0–945.0 (Illinois).
18. 1 day—During the first week of July	Louisville Bats Baseball Club/Louisville Bats Firework Show.	Louisville, KY	Ohio River, Mile 603.0–604.0 (Kentucky).
19. 1 day—July 4th	Waterfront Independence Festival/Louisville Orchestra Waterfront 4th.	Louisville, KY	Ohio River, Mile 603.0–604.0 (Kentucky).
20. 1 day—During the first week of July	Celebration of the American Spirit Fireworks/All American 4th of July.	Owensboro, KY	Ohio River, Mile 755.0–759.0 (Kentucky).

TABLE 1 OF § 165.801—SECTOR OHIO VALLEY ANNUAL AND RECURRING SAFETY ZONES—Continued

Date	Sponsor/name	Location	Safety zone
21. 1 day—During the first week of July	Riverfront Independence Festival Fireworks.	New Albany, IN	Ohio River, Mile 602.0–603.5 (Indiana).
22. 1 day—July 4th	Shoals Radio Group/Spirit of Freedom Fireworks.	Florence, AL	Tennessee River, Mile 255.0–257.0 (Alabama).
23. 1 day—Saturday before July 4th	Town of Cumberland City/Lighting up the Cumberlands Fireworks.	Cumberland City, TN.	Cumberland River, Mile 103.0–105.0 (Tennessee).
24. 1 day—July 4th	Knoxville office of Special Events/Knoxville July 4th Fireworks.	Knoxville, TN	Tennessee River, Mile 647.0–648.0 (Tennessee).
25. 1 day—July 4th	NCVC/Music City July 4th	Nashville, TN	Cumberland River, Mile 190.0–192.0 (Tennessee).
26. 1 day—Saturday before July 4th, or Saturday after July 4th.	Grand Harbor Marina/Grand Harbor Marina July 4th Celebration.	Counce, TN	Tennessee-Tombigbee Waterway, Mile 450.0–450.5 (Tennessee).
27. 1 day—Second Saturday in July	City of Bellevue, KY/Bellevue Beach Park Concert Fireworks.	Bellevue, KY	Ohio River, Mile 468.2–469.2 (Kentucky and Ohio).
28. 1 day—Sunday before Labor Day	Cincinnati Bell, WEBN, and Proctor and Gamble/Riverfest.	Cincinnati, OH	Ohio River, Mile 469.2–470.5 (Kentucky and Ohio).
29. 1 day—July 4th	Summer Motions Inc./Summer Motion	Ashland, KY	Ohio River, Mile 322.1–323.1 (Kentucky).
30. 1 day—Last weekend in June or First weekend in July.	City of Point Pleasant/Point Pleasant Sternwheel Fireworks.	Point Pleasant, WV	Ohio River, Mile 265.2–266.2 (West Virginia).
31. 1 day—July 3rd or 4th	City of Charleston/City of Charleston Independence Day Celebration.	Charleston, WV	Kanawha River, Mile 58.1–59.1 (West Virginia).
32. 1 day—July 4th	Civic Forum/Civic Forum 4th of July Celebration.	Portsmouth, OH	Ohio River, Mile 355.5–356.5 (Ohio).
33. 1 day—Second Saturday in August	Guyasuta Days Festival/Borough of Sharpsburg.	Pittsburgh, PA	Allegheny River, Mile 005.5–006.0 (Pennsylvania).
34. 1 day—Third week in October	Pittsburgh Foundation/Bob O'Connor Cookie Cruise.	Pittsburgh, PA	Ohio River, Mile 0.0–0.5 (Pennsylvania).
35. 1 day—Second full week of August	PA FOB Fireworks Display	Pittsburgh, PA	Allegheny River, Mile 0.8–1.0 (Pennsylvania).
36. 1 day—Third week of August	Beaver River Regatta Fireworks	Beaver, PA	Ohio River, Mile 25.2–25.8 (Pennsylvania).
37. 1 day—December 31	Pittsburgh Cultural Trust/Highmark First Night Pittsburgh.	Pittsburgh, PA	Allegheny River Mile, 0.5–1.0 (Pennsylvania).
38. 1 day—Friday before Thanksgiving	Pittsburgh Downtown Partnership/Light Up Night.	Pittsburgh, PA	Allegheny River, Mile 0.0–1.0 (Pennsylvania).
39. Multiple days—April through November.	Pittsburgh Riverhounds/Riverhounds Fireworks.	Pittsburgh, PA	Monongahela River, Mile 0.22–0.77. (Pennsylvania).
40. 3 days—Second or third weekend in June.	Hadi Shrine/Evansville Freedom Festival Air Show.	Evansville, IN	Ohio River, Miles 791.0–795.0 (Indiana).
41. 1 day—Second or third Saturday in June, the last day of the Riverbend Festival.	Friends of the Festival, Inc./Riverbend Festival Fireworks.	Chattanooga, TN	Tennessee River, Mile 463.5–464.5 (Tennessee).
42. 2 days—Second Friday and Saturday in June.	City of Newport, KY/Italianfest	Newport, KY	Ohio River, Miles 469.6–470.0 (Kentucky and Ohio).
43. 1 day—Last Saturday in June	City of Aurora/Aurora Firecracker Festival.	Aurora, IN	Ohio River Mile, 496.7; 1400 ft. radius from the Consolidated Grain Dock located along the State of Indiana shoreline at (Indiana and Kentucky).
44. 1 day—second weekend in June	City of St. Albans/St. Albans Town Fair	St. Albans, WV	Kanawha River, Mile 46.3–47.3 (West Virginia).
45. 1 day—Saturday before July 4th	PUSH Beaver County/Beaver County Boom.	Beaver, PA	Ohio River, Mile 24.0–25.6 (Pennsylvania).
46. 1 day—4th of July (Rain date—July 5th).	Monongahela Area Chamber of Commerce/Monongahela 4th of July Celebration.	Monongahela, PA	Monongahela River, Mile 032.0–033.0 (Pennsylvania).
47. 1 day—Saturday Third or Fourth full week of July (Rain date—following Sunday).	Oakmont Yacht Club/Oakmont Yacht Club Fireworks.	Oakmont, PA	Allegheny River, Mile 12.0–12.5 (Pennsylvania).
48. 1 day—Week of July 4th	Three Rivers Regatta Fireworks/EQT 4th of July Celebration.	Pittsburgh, PA	Ohio River, Mile 0.0–0.5, Allegheny River, Mile 0.0–0.5, and Monongahela River, Mile 0.0–0.5 (Pennsylvania).
49. 1 day—3rd or 4th of July	City of Paducah, KY	Paducah, KY	Ohio River, Mile 934.0–936.0; Tennessee River, mile 0.0—1.0 (Kentucky).
50. 1 day—3rd or 4th of July	City of Hickman, KY	Hickman, KY	Lower Mississippi River, Mile 921.0–923.0 (Kentucky).
51. 1 day—During the first week of July	Evansville Freedom Celebration	Evansville, IN	Ohio River, Miles 791.0–795.0 (Indiana).
52. 3 days—One of the first two weekends in July.	Madison Regatta, Inc./Madison Regatta.	Madison, IN	Ohio River, Miles 555.0–560.0 (Indiana).

TABLE 1 OF § 165.801—SECTOR OHIO VALLEY ANNUAL AND RECURRING SAFETY ZONES—Continued

Date	Sponsor/name	Location	Safety zone
53. 1 day—July 4th	Cities of Cincinnati, OH and Newport, KY/July 4th Fireworks.	Newport, KY	Ohio River, Miles 469.6–470.2 (Kentucky and Ohio).
54. 2 days—second weekend in July	Marietta Riverfront Roar/Marietta Riverfront Roar.	Marietta, OH	Ohio River, Mile 171.6–172.6 (Ohio).
55. 1 day—1st weekend in July	Gallia County Chamber of Commerce/Gallipolis River Recreation Festival.	Gallipolis, OH	Ohio River, Mile 269.5–270.5 (Ohio).
56. 1 day—July 4th	Kindred Communications/Dawg Dazzle	Huntington, WV	Ohio River, Mile 307.8–308.8 (West Virginia).
57. 1 day—Last weekend in August	Swiss Wine Festival/Swiss Wine Festival Fireworks Show.	Ghent, KY	Ohio River, Mile 537 (Kentucky).
58. 1 day—Saturday of Labor Day weekend.	University of Pittsburgh Athletic Department/University of Pittsburgh Fireworks.	Pittsburgh, PA	Allegheny River, Mile 0.0–0.25 (Pennsylvania).
59. Sunday, Monday, or Thursday from September through January.	Pittsburgh Steelers Fireworks	Pittsburgh, PA	Ohio River, Mile 0.3–Allegheny River, Mile 0.2 (Pennsylvania).
60. 3 days—Third weekend in September.	Wheeling Heritage Port Sternwheel Festival Foundation/Wheeling Heritage Port Sternwheel Festival.	Wheeling, WV	Ohio River, Mile 90.2–90.7 (West Virginia).
61. 1 day—Second Saturday in September.	Ohio River Sternwheel Festival Committee fireworks.	Marietta, OH	Ohio River, Mile 171.5–172.5 (Ohio).
62. 1 day—Second weekend of October	Leukemia and Lymphoma Society/Light the Night Walk Fireworks.	Nashville, TN	Cumberland River, Mile 190.0–192.0 (Tennessee).
63. 1 day—First Saturday in October	West Virginia Motor Car Festival	Charleston, WV	Kanawha River, Mile 58–59 (West Virginia).
64. 1 day—Friday before Thanksgiving	Kittanning Light Up Night Firework Display.	Kittanning, PA	Allegheny River, Mile 44.5–45.5 (Pennsylvania).
65. 1 day—First week in October	Leukemia & Lymphoma Society/Light the Night.	Pittsburgh, PA	Ohio River, Mile 0.0–0.4 (Pennsylvania).
66. 1 day—Friday before Thanksgiving	Duquesne Light/Santa Spectacular	Pittsburgh, PA	Monongahela River, Mile 0.00–0.22, Allegheny River, Mile 0.00–0.25, and Ohio River, Mile 0.0–0.3 (Pennsylvania).

* * * * *

Dated: January 5, 2016.

R.V. Timme,

Captain, U.S. Coast Guard, Captain of the Port Ohio Valley.

[FR Doc. 2016–05032 Filed 3–4–16; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2015–0838; FRL–9943–26–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Infrastructure Requirements for the 2012 Fine Particulate Matter National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the Commonwealth of Virginia pursuant to the Clean Air Act (CAA). Whenever new or revised national ambient air quality standards (NAAQS) are promulgated, the CAA requires states to submit a plan for the implementation, maintenance, and enforcement of such NAAQS. The plan is required to address basic program elements including, but not limited to, regulatory structure, monitoring, modeling, legal authority, and adequate resources necessary to assure attainment and maintenance of the standards. These elements are referred to as infrastructure requirements. The Commonwealth of Virginia has made a submittal addressing the infrastructure requirements for the 2012 fine particulate matter ($PM_{2.5}$) NAAQS. This action is being taken under the CAA.

DATES: Written comments must be received on or before April 6, 2016.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2015–0838 at *http://www.regulations.gov,* or via email to *fernandez.cristina@epa.gov.* For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Ellen Schmitt, (215) 814–5787, or by email at *schmitt.ellen@epa.gov.*

SUPPLEMENTARY INFORMATION: On July 16, 2015, the Commonwealth of Virginia (Virginia) through the Virginia Department of Environmental Quality (VADEQ) submitted a revision to the Commonwealth's SIP to satisfy the requirements of section 110(a)(2) of the CAA for the 2012 $PM_{2.5}$ NAAQS.

I. Background

On July 18, 1997, the EPA promulgated a new 24-hour and a new annual NAAQS for $PM_{2.5}$ (62 FR 38652). On October 17, 2006, the EPA revised the standards for $PM_{2.5}$, tightening the 24-hour $PM_{2.5}$ standard from 65 micrograms per cubic meter (μg/m^3) to 35 μg/m^3, and retaining the annual $PM_{2.5}$ standard at 15 μg/m^3 (71 FR 61144). Subsequently, on December 14, 2012, the EPA revised the level of the health based (primary) annual $PM_{2.5}$ standard to 12 μg/m^3. *See* 78 FR 3086 (January 15, 2013).[1]

Pursuant to section 110(a)(1) of the CAA, states are required to submit SIPs meeting the applicable requirements of section 110(a)(2) within three years after promulgation of a new or revised NAAQS or within such shorter period as EPA may prescribe. Section 110(a)(2) requires states to address basic SIP elements such as requirements for monitoring, basic program requirements, and legal authority that are designed to assure attainment and maintenance of the NAAQS. Section 110(a) imposes the obligation upon states to make a SIP submission to EPA for a new or revised NAAQS, but the contents of that submission may vary depending upon the facts and circumstances. In particular, the data and analytical tools available at the time the state develops and submits the SIP for a new or revised NAAQS affect the content of the submission. The content of such SIP submission may also vary depending upon what provisions the state's existing SIP already contains.

More specifically, section 110(a)(1) provides the procedural and timing requirements for SIPs. Section 110(a)(2) lists specific elements that states must meet for infrastructure SIP requirements related to a newly established or revised NAAQS. As mentioned earlier, these requirements include basic SIP elements such as requirements for monitoring, basic program requirements, and legal authority that are designed to assure attainment and maintenance of the NAAQS.

II. Summary of SIP Revision

On July 16, 2015, the VADEQ provided a SIP revision to satisfy certain section 110(a)(2) requirements of the CAA for the 2012 $PM_{2.5}$ NAAQS.[2] This revision addressed the following CAA infrastructure elements which EPA is proposing to approve: Section 110(a)(2)(A), (B), (C), (D)(i)(II) (prevention of significant deterioration), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). A detailed summary of EPA's review and rationale for finding Virginia's submittal addresses these requirements in section 110(a)(2) may be found in the technical support document (TSD) for this rulemaking action which is available on line at *www.regulations.gov,* Docket ID Number EPA–R03–OAR–2015–0838.

This rulemaking action does not include any proposed action on section 110(a)(2)(I) of the CAA which pertains to the nonattainment requirements of part D, title I of the CAA, because this element is not required to be submitted by the 3-year submission deadline of section 110(a)(1) of the CAA and Virginia's July 16, 2015 SIP submittal did not address this element. Virginia's obligations under section 110(a)(2)(I) will be addressed in a separate process if applicable or necessary for the 2012 $PM_{2.5}$ NAAQS. This rulemaking action also does not include proposed action on requirements under section 110(a)(2)(D)(i)(I) of the CAA because Virginia's submittal did not include any provisions for this element; therefore, EPA will take later, separate action on section 110(a)(2)(D)(i)(I) for the 2012 $PM_{2.5}$ NAAQS for Virginia. Finally, at this time, EPA is not proposing action on the portion of Virginia's July 16, 2015 infrastructure SIP submittal addressing section 110(a)(2)(D)(i)(II) for visibility protection for the 2012 $PM_{2.5}$ NAAQS. Although Virginia's submittal referred to a July 16, 2015 regional haze SIP revision submittal to address requirements in section 110(a)(2)(D)(i)(II) for visibility protection for the 2012 $PM_{2.5}$ NAAQS, EPA intends to take separate rulemaking action on the July 16, 2015 regional haze SIP revision and on the portion of the July 16, 2015 infrastructure SIP submission for section 110(a)(2)(D)(i)(II) (visibility protection) as explained in the TSD. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

III. EPA's Approach To Reviewing Infrastructure SIPs

EPA is acting upon the SIP submission from Virginia that addresses the infrastructure requirements of section 110(a)(1) and (2) of the CAA for the 2012 $PM_{2.5}$ NAAQS. The requirement for states to make a SIP submission of this type arises out of section 110(a)(1) of the CAA. Pursuant to section 110(a)(1), states must make SIP submissions ''within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a national primary ambient air quality standard (or any revision thereof),'' and these SIP submissions are to provide for the ''implementation, maintenance, and enforcement'' of such NAAQS. The statute directly imposes on states the duty to make these SIP submissions, and the requirement to make the submissions is not conditioned upon EPA's taking any action other than promulgating a new or revised NAAQS. Section 110(a)(2) of the CAA includes a list of specific elements that ''[e]ach such plan'' submission must address.

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

Section 110(a)(1) of the CAA addresses the timing and general requirements for infrastructure SIP submissions and section 110(a)(2) provides more details concerning the required contents of these submissions. The list of required elements provided in section 110(a)(2) contains a wide variety of disparate provisions, some of which pertain to required legal authority, some of which pertain to required substantive program provisions, and some of which pertain to requirements for both authority and substantive program provisions.[3] EPA

[1] In EPA's 2012 $PM_{2.5}$ NAAQS revision, EPA left unchanged the existing welfare (secondary) standards for $PM_{2.5}$ to address PM related effects such as visibility impairment, ecological effects, damage to materials and climate impacts. This includes an annual secondary standard of 15 μg/m^3 and a 24-hour standard of 35 μg/m^3.

[2] To clarify, the ''2013 $PM_{2.5}$ NAAQS'' referred to in the Virginia SIP submittal is the same as the ''2012 $PM_{2.5}$ NAAQS'' EPA refers to in this rulemaking action. The final rule for this NAAQS was signed by the EPA Administrator on December 14, 2012, thereby it has been called the ''2012 $PM_{2.5}$ NAAQS.'' However, the final rule was published in the **Federal Register** on January 15, 2013, with an effective date of March 13, 2013, resulting in it also being referred to as the ''2013 $PM_{2.5}$ NAAQS.''

[3] For example: Section 110(a)(2)(E)(i) of the CAA provides that states must provide assurances that they have adequate legal authority under state and

therefore believes that while the timing requirement in section 110(a)(1) is unambiguous, some of the other statutory provisions are ambiguous. In particular, EPA believes that the list of required elements for infrastructure SIP submissions provided in section 110(a)(2) contains ambiguities concerning what is required for inclusion in an infrastructure SIP submission.

The following examples of ambiguities illustrate the need for EPA to interpret some section 110(a)(1) and section 110(a)(2) requirements with respect to infrastructure SIP submissions for a given new or revised NAAQS. One example of ambiguity is that section 110(a)(2) requires that ''each'' SIP submission must meet the list of requirements therein, while EPA has long noted that this literal reading of the statute is internally inconsistent and would create a conflict with the nonattainment provisions in part D of title I of the CAA, which specifically address nonattainment SIP requirements.[4] Section 110(a)(2)(I) of the CAA pertains to nonattainment SIP requirements and part D addresses when attainment plan SIP submissions to address nonattainment area requirements are due. For example, section 172(b) of the CAA requires EPA to establish a schedule for submission of such plans for certain pollutants when the Administrator promulgates the designation of an area as nonattainment, and section 107(d)(1)(B) of the CAA allows up to two years or in some cases three years, for such designations to be promulgated.[5] This ambiguity illustrates that rather than apply all the stated requirements of section 110(a)(2) in a strict literal sense, EPA must determine which provisions of section 110(a)(2) are applicable for a particular infrastructure SIP submission.

Another example of ambiguity within section 110(a)(1) and (2) with respect to infrastructure SIPs pertains to whether states must meet all of the infrastructure SIP requirements in a single SIP submission, and whether EPA must act upon such SIP submission in a single action. Although section 110(a)(1) directs states to submit ''a plan'' to meet these requirements, EPA interprets the CAA to allow states to make multiple SIP submissions separately addressing infrastructure SIP elements for the same NAAQS. If states elect to make such multiple SIP submissions to meet the infrastructure SIP requirements, EPA can elect to act on such submissions either individually or in a larger combined action.[6] Similarly, EPA interprets the CAA to allow it to take action on the individual parts of one larger, comprehensive infrastructure SIP submission for a given NAAQS without concurrent action on the entire submission. For example, EPA has sometimes elected to act at different times on various elements and sub-elements of the same infrastructure SIP submission.[7]

Ambiguities within section 110(a)(1) and (2) may also arise with respect to infrastructure SIP submission requirements for different NAAQS. Thus, EPA notes that not every element of section 110(a)(2) would be relevant, or as relevant, or relevant in the same way, for each new or revised NAAQS. The states' attendant infrastructure SIP submissions for each NAAQS therefore could be different. For example, the monitoring requirements that a state might need to meet in its infrastructure SIP submission for purposes of section 110(a)(2)(B) could be very different for different pollutants, for example because the content and scope of a state's infrastructure SIP submission to meet this element might be very different for an entirely new NAAQS than for a minor revision to an existing NAAQS.[8]

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

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

local law to carry out the SIP; section 110(a)(2)(C) of the CAA provides that states must have a SIP approved program to address certain sources as required by part C of title I of the CAA; and section 110(a)(2)(G) of the CAA provides that states must have legal authority to address emergencies as well as contingency plans that are triggered in the event of such emergencies.

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

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

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

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

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

Historically, EPA has elected to use guidance documents to make recommendations to states for infrastructure SIPs, in some cases conveying needed interpretations on newly arising issues and in some cases conveying interpretations that have already been developed and applied to individual SIP submissions for particular elements.[9] EPA most recently issued guidance for infrastructure SIPs on September 13, 2013 (2013 Guidance).[10] EPA developed this document to provide states with up-to-date guidance for infrastructure SIPs for any new or revised NAAQS. Within this guidance, EPA describes the duty of states to make infrastructure SIP submissions to meet basic structural SIP requirements within three years of promulgation of a new or revised NAAQS. EPA also made recommendations about many specific subsections of section 110(a)(2) of the CAA that are relevant in the context of infrastructure SIP submissions.[11] The guidance also discusses the substantively important issues that are germane to certain subsections of section 110(a)(2). Significantly, EPA interprets section 110(a)(1) and (2) such that infrastructure SIP submissions need to address certain issues and need not address others. Accordingly, EPA reviews each infrastructure SIP submission for compliance with the applicable statutory provisions of section 110(a)(2), as appropriate.

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

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

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

With respect to certain other issues, EPA does not believe that an action on a state's infrastructure SIP submission is necessarily the appropriate type of action in which to address possible deficiencies in a state's existing SIP. These issues include: (i) Existing provisions related to excess emissions from sources during periods of startup, shutdown, or malfunction that may be contrary to the CAA and EPA's policies addressing such excess emissions (SSM); (ii) existing provisions related to ''director's variance'' or ''director's discretion'' that may be contrary to the CAA because they purport to allow revisions to SIP approved emissions limits while limiting public process or not requiring further approval by EPA; and (iii) existing provisions for PSD programs that may be inconsistent with current requirements of EPA's ''Final NSR Improvement Rule,'' 67 FR 80186 (December 31, 2002), as amended by 72 FR 32526 (June 13, 2007) (NSR Reform). Thus, EPA believes it may approve an infrastructure SIP submission without scrutinizing the totality of the existing SIP for such potentially deficient provisions and may approve the submission even if it is aware of such existing provisions.[12] It is important to note that EPA's approval of a state's infrastructure SIP submission should not be construed as explicit or implicit re-approval of any existing potentially deficient provisions that relate to the three specific issues just described.

EPA's approach to review infrastructure SIP submissions is to identify the CAA requirements that are logically applicable to that submission. EPA believes that this approach to the review of a particular infrastructure SIP submission is appropriate, because it would not be reasonable to read the general requirements of section 110(a)(1) and the list of elements in section 110(a)(2) as requiring review of each and every provision of a state's existing SIP against all requirements in the CAA and EPA regulations merely for purposes of assuring that the state in question has the basic structural elements for a functioning SIP for a new or revised NAAQS. Because SIPs have

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

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

[11] EPA's September 13, 2013, guidance did not make recommendations with respect to infrastructure SIP submissions to address section 110(a)(2)(D)(i)(I). EPA issued the guidance shortly after the U.S. Supreme Court agreed to review the D.C. Circuit decision in *EME Homer City,* 696 F.3d 7 (D.C. Cir. 2012) which had interpreted the requirements of section 110(a)(2)(D)(i)(I). In light of the uncertainty created by ongoing litigation, EPA elected not to provide additional guidance on the requirements of section 110(a)(2)(D)(i)(I) at that time. As the guidance is neither binding nor required by statute, whether EPA elects to provide guidance on a particular section has no impact on a state's CAA obligations.

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

grown by accretion over the decades as statutory and regulatory requirements under the CAA have evolved, they may include some outmoded provisions and historical artifacts. These provisions, while not fully up to date, nevertheless may not pose a significant problem for the purposes of ''implementation, maintenance, and enforcement'' of a new or revised NAAQS when EPA evaluates adequacy of the infrastructure SIP submission. EPA believes that a better approach is for states and EPA to focus attention on those elements of section 110(a)(2) of the CAA most likely to warrant a specific SIP revision due to the promulgation of a new or revised NAAQS or other factors.

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

Finally, EPA believes that its approach with respect to infrastructure SIP requirements is based on a reasonable reading of sections 110(a)(1) and (2) because the CAA provides other avenues and mechanisms to address specific substantive deficiencies in existing SIPs. These other statutory tools allow EPA to take appropriately tailored action, depending upon the nature and severity of the alleged SIP deficiency. Section 110(k)(5) of the CAA authorizes EPA to issue a ''SIP call'' whenever the Agency determines that a state's SIP is substantially inadequate to attain or maintain the NAAQS, to mitigate interstate transport, or to otherwise comply with the CAA.[13] Section 110(k)(6) of the CAA authorizes EPA to correct errors in past actions, such as past approvals of SIP submissions.[14] Significantly, EPA's determination that an action on a state's infrastructure SIP submission is not the appropriate time and place to address all potential existing SIP deficiencies does not preclude EPA's subsequent reliance on provisions in section 110(a)(2) as part of the basis for action to correct those deficiencies at a later time. For example, although it may not be appropriate to require a state to eliminate all existing inappropriate director's discretion provisions in the course of acting on an infrastructure SIP submission, EPA believes that section 110(a)(2)(A) may be among the statutory bases that EPA relies upon in the course of addressing such deficiency in a subsequent action.[15]

IV. Proposed Action

EPA is proposing to approve the following elements of Virginia's July 16, 2015 infrastructure SIP revision for the 2012 $PM_{2.5}$ NAAQS: Section 110(a)(2)(A), (B), (C), (D)(i)(II) (prevention of significant deterioration), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). Virginia's July 16, 2015 SIP revision provides the basic program elements specified in section 110(a)(2) of the CAA necessary to implement, maintain, and enforce the 2012 $PM_{2.5}$ NAAQS. This proposed rulemaking action does not include action on section 110(a)(2)(I) which pertains to the nonattainment planning requirements of part D, title I of the CAA, because this element is not required to be submitted by the 3-year submission deadline of section 110(a)(1) of the CAA, and will be addressed in a separate process where necessary and applicable. Additionally, this proposed rulemaking action does not include rulemaking action on section 110(a)(2)(D)(i)(I) (interstate transport of emissions) or (D)(i)(II) (visibility protection) for the 2012 $PM_{2.5}$ NAAQS. EPA will take later, separate action on Virginia's requirements for section 110(a)(2)(D)(i)(I) and (D)(i)(II) (visibility protection) for the 2012 $PM_{2.5}$ NAAQS.

V. General Information Pertaining to SIP Submittals From the Commonwealth of Virginia

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) ''privilege'' for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1–1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information that: (1) Are generated or developed before the commencement of a voluntary environmental assessment; (2) are prepared independently of the assessment process; (3) demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) are required by law.

On January 12, 1998, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege law, Va. Code Sec. 10.1–1198, precludes granting a privilege to documents and information ''required by law,'' including documents and information ''required by federal law to maintain program delegation, authorization or approval,'' since Virginia must ''enforce federally authorized environmental programs in a manner that is no less stringent than their federal counterparts. . . .'' The opinion concludes that ''[r]egarding § 10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by federal law to maintain program delegation, authorization or approval.''

Virginia's Immunity law, Va. Code Sec. 10.1–1199, provides that ''[t]o the extent consistent with requirements imposed by federal law,'' any person

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

[14] EPA has used this authority to correct errors in past actions on SIP submissions related to PSD programs. *See* ''Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans; Final Rule,'' 75 FR 82536 (December 30, 2010). The EPA has previously used its authority under CAA section 110(k)(6) to remove numerous other SIP provisions that the Agency determined it had approved in error. *See, e.g.,* 61 FR 38664 (July 25, 1996) and 62 FR 34641 (June 27, 1997) (corrections to American Samoa, Arizona, California, Hawaii, and Nevada SIPs); 69 FR 67062 (November 16, 2004) (corrections to California SIP); and 74 FR 57051 (November 3, 2009) (corrections to Arizona and Nevada SIPs).

[15] *See, e.g.,* EPA's disapproval of a SIP submission from Colorado on the grounds that it would have included a director's discretion provision inconsistent with CAA requirements, including section 110(a)(2)(A). *See, e.g.,* 75 FR 42342 at 42344 (July 21, 2010) (proposed disapproval of director's discretion provisions); 76 FR 4540 (January 26, 2011) (final disapproval of such provisions).

making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1998 opinion states that the quoted language renders this statute inapplicable to enforcement of any federally authorized programs, since ''no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with federal law, which is one of the criteria for immunity.''

Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its program consistent with the federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on federal enforcement authorities, EPA may at any time invoke its authority under the CAA, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the CAA is likewise unaffected by this, or any, state audit privilege or immunity law.

VI. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (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 application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule, which satisfies certain infrastructure requirements of section 110(a)(2) of the CAA for the 2012 $PM_{2.5}$ NAAQS for the Commonwealth of Virginia, is not being approved to apply on any Indian reservation land as defined in 18 U.S.C. 1151 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 will not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

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

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

Dated: February 19, 2016.

Shawn M. Garvin,

Regional Administrator, Region III.

[FR Doc. 2016–04755 Filed 3–4–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2014–0860; FRL 9943–30–Region 5]

Air Plan Approval; Wisconsin; Base Year Emission Inventories for the 2008 8-Hour Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the Wisconsin Department of Natural Resources (WDNR) on November 14, 2014, to address emission inventory requirements for the Sheboygan, Wisconsin nonattainment area and the Wisconsin portion of the Chicago-Naperville, Illinois-Indiana-Wisconsin (IL–IN–WI) nonattainment area under the 2008 ozone National Ambient Air Quality Standard (NAAQS). EPA is proposing to approve the 2011 Volatile Organic Compounds (VOC) and Oxides of Nitrogen (NO_X) emission inventories in the November 14, 2014, submittal as part of the Wisconsin SIP.

DATES: Comments must be received on or before April 6, 2016.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2014–0860 at *http://www.regulations.gov* or via email to *Aburano.Douglas@epa.gov.* For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, 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, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on

making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Edward Doty, Air Programs Branch (AR–18J), Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6057, *Doty.Edward@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because EPA views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives 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 rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions 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**.

Dated: February 22, 2016.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

[FR Doc. 2016–04895 Filed 3–4–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2015–0151; FRL–9943–34–Region 4]

Approval and Promulgation of Implementation Plans; South Carolina; Infrastructure Requirements for the 2010 Sulfur Dioxide National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve portions of the State Implementation Plan (SIP) submission, submitted by the State of South Carolina, through the South Carolina Department of Health and Environmental Control (SC DHEC), on May 8, 2014, to demonstrate that the State meets the infrastructure requirements of the Clean Air Act (CAA or Act) for the 2010 1-hour sulfur dioxide (SO_2) national ambient air quality standard (NAAQS). The CAA requires that each state adopt and submit a SIP for the implementation, maintenance and enforcement of each NAAQS promulgated by EPA, which is commonly referred to as an ''infrastructure'' SIP. SC DHEC certified that the South Carolina SIP contains provisions that ensure the 2010 1-hour SO_2 NAAQS is implemented, enforced, and maintained in South Carolina. EPA is proposing to determine that portions of South Carolina's infrastructure submission, submitted to EPA on May 8, 2014, satisfy certain required infrastructure elements for the 2010 1-hour SO_2 NAAQS.

DATES: Written comments must be received on or before April 6, 2016.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2015–0151 at *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: Michele Notarianni, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Ms. Notarianni can be reached via electronic mail at *notarianni.michele@epa.gov* or the telephone number (404) 562–9031.

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I. Background and Overview

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

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

[1] In these infrastructure SIP submissions States generally certify evidence of compliance with sections 110(a)(1) and (2) of the CAA through a combination of state regulations and statutes, some of which have been incorporated into the federally-approved SIP. In addition, certain federally-approved, non-SIP regulations may also be appropriate for demonstrating compliance with sections 110(a)(1) and (2). Throughout this rulemaking, unless otherwise indicated, the term ''Regulation'' indicates that the cited regulation has been approved into South Carolina's federally-approved SIP. The term ''S.C. Code Ann.'' indicates cited South Carolina state statutes, which are not a part of the SIP unless otherwise indicated.

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

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

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

- 110(a)(2)(A): Emission Limits and Other Control Measures
- 110(a)(2)(B): Ambient Air Quality Monitoring/Data System
- 110(a)(2)(C): Programs for Enforcement of Control Measures and for Construction or Modification of Stationary Sources [3]
- 110(a)(2)(D)(i)(I) and (II): Interstate Pollution Transport
- 110(a)(2)(D)(ii): Interstate Pollution Abatement and International Air Pollution
- 110(a)(2)(E): Adequate Resources and Authority, Conflict of Interest, and Oversight of Local Governments and Regional Agencies
- 110(a)(2)(F): Stationary Source Monitoring and Reporting
- 110(a)(2)(G): Emergency Powers
- 110(a)(2)(H): SIP Revisions
- 110(a)(2)(I): Plan Revisions for Nonattainment Areas [4]
- 110(a)(2)(J): Consultation with Government Officials, Public Notification, and Prevention of Significant Deterioration (PSD) and Visibility Protection
- 110(a)(2)(K): Air Quality Modeling and Submission of Modeling Data
- 110(a)(2)(L): Permitting fees
- 110(a)(2)(M): Consultation and Participation by Affected Local Entities

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

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

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

Section 110(a)(1) addresses the timing and general requirements for infrastructure SIP submissions, and section 110(a)(2) provides more details concerning the required contents of these submissions. The list of required elements provided in section 110(a)(2) contains a wide variety of disparate provisions, some of which pertain to required legal authority, some of which pertain to required substantive program provisions, and some of which pertain to requirements for both authority and substantive program provisions.[5] EPA therefore believes that while the timing requirement in section 110(a)(1) is unambiguous, some of the other statutory provisions are ambiguous. In particular, EPA believes that the list of required elements for infrastructure SIP submissions provided in section 110(a)(2) contains ambiguities concerning what is required for inclusion in an infrastructure SIP submission.

The following examples of ambiguities illustrate the need for EPA to interpret some section 110(a)(1) and section 110(a)(2) requirements with respect to infrastructure SIP submissions for a given new or revised NAAQS. One example of ambiguity is that section 110(a)(2) requires that ''each'' SIP submission must meet the list of requirements therein, while EPA has long noted that this literal reading of the statute is internally inconsistent and would create a conflict with the nonattainment provisions in part D of title I of the Act, which specifically address nonattainment SIP

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

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

[4] As mentioned above, this element is not relevant to today's proposed rulemaking.

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

requirements.[6] Section 110(a)(2)(I) pertains to nonattainment SIP requirements and part D addresses when attainment plan SIP submissions to address nonattainment area requirements are due. For example, section 172(b) requires EPA to establish a schedule for submission of such plans for certain pollutants when the Administrator promulgates the designation of an area as nonattainment, and section 107(d)(1)(B) allows up to two years, or in some cases three years, for such designations to be promulgated.[7] This ambiguity illustrates that rather than apply all the stated requirements of section 110(a)(2) in a strict literal sense, EPA must determine which provisions of section 110(a)(2) are applicable for a particular infrastructure SIP submission.

Another example of ambiguity within sections 110(a)(1) and 110(a)(2) with respect to infrastructure SIPs pertains to whether states must meet all of the infrastructure SIP requirements in a single SIP submission, and whether EPA must act upon such SIP submission in a single action. Although section 110(a)(1) directs states to submit ''a plan'' to meet these requirements, EPA interprets the CAA to allow states to make multiple SIP submissions separately addressing infrastructure SIP elements for the same NAAQS. If states elect to make such multiple SIP submissions to meet the infrastructure SIP requirements, EPA can elect to act on such submissions either individually or in a larger combined action.[8] Similarly, EPA interprets the CAA to allow it to take action on the individual parts of one larger, comprehensive infrastructure SIP submission for a given NAAQS without concurrent action on the entire submission. For example, EPA has sometimes elected to act at different times on various elements and sub-elements of the same infrastructure SIP submission.[9]

Ambiguities within sections 110(a)(1) and 110(a)(2) may also arise with respect to infrastructure SIP submission requirements for different NAAQS. Thus, EPA notes that not every element of section 110(a)(2) would be relevant, or as relevant, or relevant in the same way, for each new or revised NAAQS. The states' attendant infrastructure SIP submissions for each NAAQS therefore could be different. For example, the monitoring requirements that a state might need to meet in its infrastructure SIP submission for purposes of section 110(a)(2)(B) could be very different for different pollutants because the content and scope of a state's infrastructure SIP submission to meet this element might be very different for an entirely new NAAQS than for a minor revision to an existing NAAQS.[10]

EPA notes that interpretation of section 110(a)(2) is also necessary when EPA reviews other types of SIP submissions required under the CAA. Therefore, as with infrastructure SIP submissions, EPA also has to identify and interpret the relevant elements of section 110(a)(2) that logically apply to these other types of SIP submissions. For example, section 172(c)(7) requires that attainment plan SIP submissions required by part D have to meet the ''applicable requirements'' of section 110(a)(2). Thus, for example, attainment plan SIP submissions must meet the requirements of section 110(a)(2)(A) regarding enforceable emission limits and control measures and section 110(a)(2)(E)(i) regarding air agency resources and authority. By contrast, it is clear that attainment plan SIP submissions required by part D would not need to meet the portion of section 110(a)(2)(C) that pertains to the PSD program required in part C of title I of the CAA, because PSD does not apply to a pollutant for which an area is designated nonattainment and thus subject to part D planning requirements. As this example illustrates, each type of SIP submission may implicate some elements of section 110(a)(2) but not others. Given the potential for ambiguity in some of the statutory language of section 110(a)(1) and section 110(a)(2), EPA believes that it is appropriate to interpret the ambiguous portions of section 110(a)(1) and section 110(a)(2) in the context of acting on a particular SIP submission. In other words, EPA assumes that Congress could not have intended that each and every SIP submission, regardless of the NAAQS in question or the history of SIP development for the relevant pollutant, would meet each of the requirements, or meet each of them in the same way. Therefore, EPA has adopted an approach under which it reviews infrastructure SIP submissions against the list of elements in section 110(a)(2), but only to the extent each element applies for that particular NAAQS.

Historically, EPA has elected to use guidance documents to make recommendations to states for infrastructure SIPs, in some cases conveying needed interpretations on newly arising issues and in some cases conveying interpretations that have already been developed and applied to individual SIP submissions for particular elements.[11] EPA most recently issued guidance for infrastructure SIPs on September 13, 2013 (2013 Guidance).[12] EPA developed this document to provide states with up-to-date guidance for infrastructure SIPs for any new or revised NAAQS. Within this guidance, EPA describes the duty of states to make infrastructure SIP submissions to meet basic structural SIP requirements within three years of promulgation of a new or revised NAAQS. EPA also made recommendations about many specific subsections of section 110(a)(2) that are relevant in the context of infrastructure

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

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

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

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

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

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

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

SIP submissions.[13] The guidance also discusses the substantively important issues that are germane to certain subsections of section 110(a)(2). Significantly, EPA interprets sections 110(a)(1) and 110(a)(2) such that infrastructure SIP submissions need to address certain issues and need not address others. Accordingly, EPA reviews each infrastructure SIP submission for compliance with the applicable statutory provisions of section 110(a)(2), as appropriate.

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

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

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

With respect to certain other issues, EPA does not believe that an action on a state's infrastructure SIP submission is necessarily the appropriate type of action in which to address possible deficiencies in a state's existing SIP. These issues include: (i) Existing provisions related to excess emissions from sources during periods of startup, shutdown, or malfunction that may be contrary to the CAA and EPA's policies addressing such excess emissions (''SSM''); (ii) existing provisions related to ''director's variance'' or ''director's discretion'' that may be contrary to the CAA because they purport to allow revisions to SIP-approved emissions limits while limiting public process or not requiring further approval by EPA; and (iii) existing provisions for PSD programs that may be inconsistent with current requirements of EPA's ''Final NSR Improvement Rule,'' 67 FR 80186 (December 31, 2002), as amended by 72 FR 32526 (June 13, 2007) (''NSR Reform''). Thus, EPA believes it may approve an infrastructure SIP submission without scrutinizing the totality of the existing SIP for such potentially deficient provisions and may approve the submission even if it is aware of such existing provisions.[14] It is important to note that EPA's approval of a state's infrastructure SIP submission should not be construed as explicit or implicit re-approval of any existing potentially deficient provisions that relate to the three specific issues just described.

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

For example, EPA's 2013 Guidance gives simpler recommendations with respect to carbon monoxide than other NAAQS pollutants to meet the visibility requirements of section 110(a)(2)(D)(i)(II), because carbon monoxide does not affect visibility. As a result, an infrastructure SIP submission for any future new or revised NAAQS for carbon monoxide need only state this fact in order to address the visibility prong of section 110(a)(2)(D)(i)(II). Finally, EPA believes that its approach with respect to infrastructure SIP requirements is based on a reasonable reading of sections 110(a)(1) and 110(a)(2) because the CAA

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

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

provides other avenues and mechanisms to address specific substantive deficiencies in existing SIPs. These other statutory tools allow EPA to take appropriately tailored action, depending upon the nature and severity of the alleged SIP deficiency. Section 110(k)(5) authorizes EPA to issue a ''SIP call'' whenever the Agency determines that a state's implementation plan is substantially inadequate to attain or maintain the NAAQS, to mitigate interstate transport, or to otherwise comply with the CAA.[15] Section 110(k)(6) authorizes EPA to correct errors in past actions, such as past approvals of SIP submissions.[16] Significantly, EPA's determination that an action on a state's infrastructure SIP submission is not the appropriate time and place to address all potential existing SIP deficiencies does not preclude EPA's subsequent reliance on provisions in section 110(a)(2) as part of the basis for action to correct those deficiencies at a later time. For example, although it may not be appropriate to require a state to eliminate all existing inappropriate director's discretion provisions in the course of acting on an infrastructure SIP submission, EPA believes that section 110(a)(2)(A) may be among the statutory bases that EPA relies upon in the course of addressing such deficiency in a subsequent action.[17]

IV. What is EPA's analysis of how South Carolina addressed the elements of the sections 110(a)(1) and (2) ''Infrastructure'' provisions?

South Carolina's May 8, 2014, infrastructure SIP submission addresses the provisions of sections 110(a)(1) and (2) as described below.

1. 110(a)(2)(A): *Emission Limits and Other Control Measures:* Section 110(a)(2)(A) requires that each implementation plan include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements. Several regulations within South Carolina's SIP are relevant to air quality control regulations. The regulations described below have been federally-approved in the South Carolina SIP and include enforceable emission limitations and other control measures. Regulation 61–62.5, Standard No. 2, *Ambient Air Quality Standards* and Regulation 61–62.1, *Definitions and General Requirements,* provide enforceable emission limits and other control measures, means, and techniques. Section 48–1–50(23) of the 1976 South Carolina Code of Laws, as amended, (S.C. Code Ann.) provides SC DHEC with the authority to ''Adopt emission and effluent control regulations standards and limitations that are applicable to the entire state, that are applicable only within specified areas or zones of the state, or that are applicable only when a specified class of pollutant is present.'' Collectively these regulations establish enforceable emissions limitations and other control measures, means or techniques, for activities that contribute to SO_2 concentrations in the ambient air and provide authority for SC DHEC to establish such limits and measures as well as schedules for compliance to meet the applicable requirements of the CAA. EPA has made the preliminary determination that the provisions contained in these State regulations and State statute are adequate for enforceable emission limitations and other control measures, means, or techniques, as well as schedules and timetables for compliance to satisfy the requirements of Section 110(a)(2(A) for the 2010 1-hour SO_2 NAAQS in the State.

In this action, EPA is not proposing to approve or disapprove any existing state provisions with regard to excess emissions during start up, shut down and malfunction (SSM) operations at a facility. EPA believes that a number of states have SSM provisions which are contrary to the CAA and existing EPA guidance, ''State Implementation Plans: Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown'' (September 20, 1999), and the Agency is addressing such state regulations in a separate action.[18]

Additionally, in this action, EPA is not proposing to approve or disapprove any existing state rules with regard to director's discretion or variance provisions. EPA believes that a number of states have such provisions which are contrary to the CAA and existing EPA guidance (52 FR 45109 (November 24, 1987)), and the Agency plans to take action in the future to address such state regulations. In the meantime, EPA encourages any state having a director's discretion or variance provision which is contrary to the CAA and EPA guidance to take steps to correct the deficiency as soon as possible.

2. 110(a)(2)(B) *Ambient Air Quality Monitoring/Data System:* Section 110(a)(2)(B) requires SIPs to provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to: (i) Monitor, compile, and analyze data on ambient air quality, and (ii) upon request, make such data available to the Administrator. South Carolina's Air Pollution Control Regulations, Regulation 61–62.5, Standard No. 7, *Prevention of Significant Deterioration,* along with the *South Carolina Network Description and Ambient Air Network Monitoring Plan,* provide for an ambient air quality monitoring system in the State. S.C. Code Ann. § 48–1–50(14) provides the Department with the necessary authority to ''[c]ollect and disseminate information on air and water control.'' Annually, states develop and submit to EPA for approval statewide ambient monitoring network plans consistent with the requirements of 40 CFR parts 50, 53, and 58. The annual network plan involves an evaluation of any proposed changes to the monitoring network, includes the annual ambient monitoring network design plan and a certified evaluation of the agency's ambient monitors and auxiliary support equipment.[19] On July 20, 2015, South Carolina submitted its plan to EPA. On November 19, 2015, EPA approved South Carolina's monitoring network plan. South Carolina's approved monitoring network

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

[16] EPA has used this authority to correct errors in past actions on SIP submissions related to PSD programs. See ''Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans; Final Rule,'' 75 FR 82536 (December 30, 2010). EPA has previously used its authority under CAA section 110(k)(6) to remove numerous other SIP provisions that the Agency determined it had approved in error. See, *e.g.,* 61 FR 38664 (July 25, 1996) and 62 FR 34641 (June 27, 1997) (corrections to American Samoa, Arizona, California, Hawaii, and Nevada SIPs); 69 FR 67062 (November 16, 2004) (corrections to California SIP); and 74 FR 57051 (November 3, 2009) (corrections to Arizona and Nevada SIPs).

[17] *See, e.g.,* EPA's disapproval of a SIP submission from Colorado on the grounds that it would have included a director's discretion provision inconsistent with CAA requirements, including section 110(a)(2)(A). See, *e.g.,* 75 FR 42342 at 42344 (July 21, 2010) (proposed disapproval of director's discretion provisions); 76 FR 4540 (Jan. 26, 2011) (final disapproval of such provisions).

[18] On June 12, 2015, EPA published a final action entitled, ''State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown, and Malfunction.'' *See* 80 FR 33840.

[19] On occasion, proposed changes to the monitoring network are evaluated outside of the network plan approval process in accordance with 40 CFR part 58.

plan can be accessed at *www.regulations.gov* using Docket ID No. EPA–R04–OAR–2015–0151. EPA has made the preliminary determination that South Carolina's SIP and practices are adequate for the ambient air quality monitoring and data system requirements related to the 2010 1-hour SO_2 NAAQS.

3. 110(a)(2)(C) *Programs for Enforcement of Control Measures and for Construction or Modification of Stationary Sources:* This element consists of three sub-elements: Enforcement, state-wide regulation of new and modified minor sources and minor modifications of major sources, and preconstruction permitting of major sources and major modifications in areas designated attainment or unclassifiable for the subject NAAQS as required by CAA title I part C (*i.e.,* the major source PSD program). These requirements are met through Regulation 61–62.5, Standard No. 7, *Prevention of Significant Deterioration,* and Regulation 61–62.5, Standard No. 7.1, *Nonattainment New Source Review,* of South Carolina's SIP, which pertain to the construction of any new major stationary source or any modification at an existing major stationary source in an area designated as attainment or unclassifiable. These regulations enable SC DHEC to regulate sources contributing to the 2010 1-hour SO_2 NAAQS.

Enforcement: SC DHEC's above-described, SIP-approved regulations provide for enforcement of SO_2 emission limits and control measures through construction permitting for new or modified stationary sources. Also note that SC DHEC has powers to pursue injunctive relief and civil penalties under Section 48 of the S.C. Code Ann.

PSD Permitting for Major Sources: EPA interprets the PSD sub-element to require that a state's infrastructure SIP submission for a particular NAAQS demonstrate that the state has a complete PSD permitting program in place covering the structural PSD requirements for all regulated NSR pollutants. A state's PSD permitting program is complete for this sub-element (and prong 3 of D(i) and J related to PSD) if EPA has already approved or is simultaneously approving the state's implementation plan with respect to all structural PSD requirements that are due under the EPA regulations or the CAA on or before the date of the EPA's proposed action on the infrastructure SIP submission.

For the 2010 1-hour SO_2 NAAQS, South Carolina's authority to regulate new and modified sources to assist in the protection of air quality in South Carolina is established in Regulations 61–62.1, Section II, *Permit Requirements;* 61–62.5, Standard No. 7, *Prevention of Significant Deterioration* of South Carolina's SIP. These regulations pertain to the construction of any new major stationary source or any modification at an existing major stationary source in an area designated as attainment or unclassifiable. South Carolina also cites to 61–62.5, Standard No. 7.1, *Nonattainment New Source Review.* South Carolina's infrastructure SIP submission demonstrates that new major sources and major modifications in areas of the State designated attainment or unclassifiable for the specified NAAQS are subject to a federally-approved PSD permitting program meeting all the current structural requirements of part C of title I of the CAA to satisfy the infrastructure SIP PSD elements.[20]

Regulation of minor sources and modifications: Section 110(a)(2)(C) also requires the SIP to include provisions that govern the minor source preconstruction program that regulates emissions of the 2010 1-hour SO_2 NAAQS. Regulation 61–62.1, Section II, *Permit Requirements* governs the preconstruction permitting of modifications and construction of minor stationary sources in South Carolina.

EPA has made the preliminary determination that South Carolina's SIP and practices are adequate for enforcement of control measures, PSD permitting for major sources, and regulation of minor sources and modifications related to the 2010 1-hour SO_2 NAAQS.

4. 110(a)(2)(D)(i)(I) and (II): *Interstate Pollution Transport:* Section 110(a)(2)(D)(i) has two components: 110(a)(2)(D)(i)(I) and 110(a)(2)(D)(i)(II). Each of these components has two subparts resulting in four distinct components, commonly referred to as ''prongs,'' that must be addressed in infrastructure SIP submissions. The first two prongs, which are codified in section 110(a)(2)(D)(i)(I), are provisions that prohibit any source or other type of emissions activity in one state from contributing significantly to nonattainment of the NAAQS in another state (''prong 1''), and interfering with maintenance of the NAAQS in another state (''prong 2''). The third and fourth prongs, which are codified in section 110(a)(2)(D)(i)(II), are provisions that prohibit emissions activity in one state from interfering with measures required to prevent significant deterioration of air quality in another state (''prong 3''), or to protect visibility in another state (''prong 4'').

110(a)(2)(D)(i)(I)—prongs 1 and 2: EPA is not proposing any action in this rulemaking related to the interstate transport provisions pertaining to the contribution to nonattainment or interference with maintenance in other states of section 110(a)(2)(D)(i)(I) (prongs 1 and 2) because South Carolina's 2010 1-hour SO_2 NAAQS infrastructure submissions did not address prongs 1 and 2.

110(a)(2)(D)(i)(II)—prong 3: With regard to section 110(a)(2)(D)(i)(II), the PSD element, referred to as prong 3, this requirement may be met by a state's confirmation in an infrastructure SIP submission that new major sources and major modifications in the state are subject to: A PSD program meeting all the current structural requirements of part C of title I of the CAA, or (if the state contains a nonattainment area that has the potential to impact PSD in another state) a NNSR program. As discussed in more detail above under section 110(a)(2)(C), South Carolina's SIP contains provisions for the State's PSD program that reflect the required structural PSD requirements to satisfy the requirement of prong 3 and a NNSR program at 61–62.5, Standard No. 7.1, *Nonattainment New Source Review.* EPA has made the preliminary determination that South Carolina's SIP is adequate for interstate transport for PSD permitting of major sources and major modifications related to the 2010 1-hour SO_2 NAAQS for section 110(a)(2)(D)(i)(II) (prong 3).

110(a)(2)(D)(i)(II)—prong 4: EPA is not proposing any action in this rulemaking related to the interstate transport provisions pertaining to the contribution to nonattainment or interference with maintenance in other states of section 110(a)(2)(D)(i)(II) (prong 4) and will consider these requirements in relation to South Carolina's 2010 1-hour SO_2 NAAQS infrastructure submission in a separate rulemaking.

5. 110(a)(2)(D)(ii): *Interstate Pollution Abatement and International Air Pollution:* Section 110(a)(2)(D)(ii) requires SIPs to include provisions ensuring compliance with sections 115 and 126 of the Act, relating to interstate and international pollution abatement. Regulation 61–62.5, Standards 7 and 7.1 (q)(2)(iv), *Public Participation,* requires SC DHEC to notify air agencies ''whose lands may be affected by emissions'' from each new or modified major source if such emissions may significantly

[20] More information concerning how the South Carolina infrastructure SIP submission currently meets applicable requirements for the PSD elements (110(a)(2)(C); (D)(i)(I), prong 3; and (J)) can be found in the technical support document in the docket for today's rulemaking.

contribute to levels of pollution in excess of a NAAQS in any air quality control region outside of South Carolina. Additionally, South Carolina does not have any pending obligation under section 115 and 126 of the CAA. EPA has made the preliminary determination that South Carolina's SIP and practices are adequate for ensuring compliance with the applicable requirements relating to interstate and international pollution abatement for the 2010 1-hour SO_2 NAAQS.

6. 110(a)(2)(E) *Adequate Resources and Authority, Conflict of Interest, and Oversight of Local Governments and Regional Agencies:* Section 110(a)(2)(E) requires that each implementation plan provide (i) necessary assurances that the State will have adequate personnel, funding, and authority under state law to carry out its implementation plan, (ii) that the state comply with the requirements respecting state boards pursuant to section 128 of the Act, and (iii) necessary assurances that, where the state has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the state has responsibility for ensuring adequate implementation of such plan provisions. EPA is proposing to approve South Carolina's SIP as meeting the requirements of section 110(a)(2)(E). EPA's rationale for today's proposal respecting each requirement of section 110(a)(2)(E) is described in turn below.

With respect to section 110(a)(2)(E)(i) and (iii), SC DHEC develops, implements and enforces EPA-approved SIP provisions in the State. S.C. Code Ann. Section 48, Title 1, as referenced in South Carolina's infrastructure SIP submission, provides the SC DHEC's general legal authority to establish a SIP and implement related plans. In particular, S.C. Code Ann. Section 48–1–50(12) grants SC DHEC the statutory authority to ''[a]ccept, receive and administer grants or other funds or gifts for the purpose of carrying out any of the purposes of this chapter; [and to] accept, receive and receipt for Federal money given by the Federal government under any Federal law to the State of South Carolina for air or water control activities, surveys or programs.'' S.C. Code Ann. Section 48, Title 2 grants SC DHEC statutory authority to establish environmental protection funds, which provide resources for SC DHEC to carry out its obligations under the CAA. Specifically, in Regulation 61–30, *Environmental Protection Fees,* SC DHEC established fees for sources subject to air permitting programs. SC DHEC implements the SIP in accordance with the provisions of S.C. Code Ann § 1–23–40 (the Administrative Procedures Act) and S.C. Code Ann. Section 48, Title 1. For Section 110(a)(2)(E)(iii), the submission states that South Carolina does not rely on localities for specific SIP implementation.

The requirements of 110(a)(2)(E)(i) and (iii) are further confirmed when EPA performs a completeness determination for each SIP submittal. This provides additional assurances that each submittal provides evidence that adequate personnel, funding, and legal authority under State law has been used to carry out the State's implementation plan and related issues. This information is included in all prehearings and final SIP submittal packages for approval by EPA.

As evidence of the adequacy of SC DHEC's resources with respect to sub-elements (i) and (iii), EPA submitted a letter to South Carolina on March 9, 2015, outlining 105 grant commitments and the current status of these commitments for fiscal year 2014. The letter EPA submitted to South Carolina can be accessed at *www.regulations.gov* using Docket ID No. EPA–R04–OAR–2015–0151. Annually, states update these grant commitments based on current SIP requirements, air quality planning, and applicable requirements related to the NAAQS. There were no outstanding issues in relation to the SIP for fiscal year 2014, therefore, SC DHEC's grants were finalized and closed out.

Section 110(a)(2)(E)(ii) requires that states comply with section 128 of the CAA. Section 128 of the CAA requires that states include provisions in their SIP to address conflicts of interest for state boards or bodies that oversee CAA permits and enforcement orders and disclosure of conflict of interest requirements. Specifically, CAA section 128(a)(1) necessitates that each SIP shall require that at least a majority of any board or body which approves permits or enforcement orders shall be subject to the described public interest service and income restrictions therein. Subsection 128(a)(2) requires that the members of any board or body, or the head of an executive agency with similar power to approve permits or enforcement orders under the CAA, shall also be subject to conflict of interest disclosure requirements.

With respect to 110(a)(2)(E)(ii), South Carolina satisfies the requirements of CAA section 128(a)(1) for the South Carolina Board of Health and Environmental Control, which is the ''board or body which approves permits and enforcement orders'' under the CAA in South Carolina, through S.C. Code Ann. Section 8–13–730. S.C. Code Ann. Section 8–13–730 provides that ''[u]nless otherwise provided by law, no person may serve as a member of a governmental regulatory agency that regulates business with which that person is associated,'' and S.C. Code Ann. Section 8–13–700(A) which provides in part that ''[n]o public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated.'' S.C. Code Ann. Section 8–13–700(B)(1)–(5) provides for disclosure of any conflicts of interest by public official, public member or public employee, which meets the requirement of CAA Section 128(a)(2) that ''any potential conflicts of interest . . . be adequately disclosed.'' These State statutes—S.C. Code Ann. Sections 8–13–730, 8–13–700(A), and 8–13–700(B)(1)–(5)—have been approved into the South Carolina SIP as required by CAA section 128. EPA has made the preliminary determination that South Carolina has adequate resources for implementation of the 2010 1-hour SO_2 NAAQS.

7. 110(a)(2)(F) *Stationary Source Monitoring and Reporting:* Section 110(a)(2)(F) requires SIPs to meet applicable requirements addressing (i) the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources, (ii) periodic reports on the nature and amounts of emissions and emissions related data from such sources, and (iii) correlation of such reports by the state agency with any emission limitations or standards established pursuant to this section, which reports shall be available at reasonable times for public inspection. SC DHEC's infrastructure SIP submission describes the establishment of requirements for compliance testing by emissions sampling and analysis, and for emissions and operation monitoring to ensure the quality of data in the State. SC DHEC uses these data to track progress towards maintaining the NAAQS, develop control and maintenance strategies, identify sources and general emission levels, and determine compliance with emission regulations and additional EPA requirements. These SIP requirements are codified at Regulation 61–62.1, *Definitions and General Requirements,* which provides for an emission

inventory plan that establishes reporting requirements of the South Carolina SIP. SC DHEC's SIP requires owners or operators of stationary sources to monitor emissions, submit periodic reports of such emissions and maintain records as specified by various regulations and permits, and to evaluate reports and records for consistency with the applicable emission limitation or standard on a continuing basis over time. The monitoring data collected and records of operations serve as the basis for a source to certify compliance, and can be used by SC DHEC as direct evidence of an enforceable violation of the underlying emission limitation or standard. Accordingly, EPA is unaware of any provision preventing the use of credible evidence in the South Carolina SIP.

Additionally, South Carolina is required to submit emissions data to EPA for purposes of the National Emissions Inventory (NEI). The NEI is EPA's central repository for air emissions data. EPA published the Air Emissions Reporting Rule (AERR) on December 5, 2008, which modified the requirements for collecting and reporting air emissions data (73 FR 76539). The AERR shortened the time states had to report emissions data from 17 to 12 months, giving states one calendar year to submit emissions data. All states are required to submit a comprehensive emissions inventory every three years and report emissions for certain larger sources annually through EPA's online Emissions Inventory System. States report emissions data for the six criteria pollutants and their associated precursors—NO_X, SO_2, ammonia, lead, carbon monoxide, particulate matter, and volatile organic compounds. Many states also voluntarily report emissions of hazardous air pollutants. South Carolina made its latest update to the 2011 NEI on April 8, 2014. EPA compiles the emissions data, supplementing it where necessary, and releases it to the general public through the Web site *http://www.epa.gov/ttn/chief/eiinformation.html.* EPA has made the preliminary determination that South Carolina's SIP and practices are adequate for the stationary source monitoring systems related to the 1-hour SO_2 NAAQS. Accordingly, EPA is proposing to approve South Carolina's infrastructure SIP submission with respect to section 110(a)(2)(F).

8. 110(a)(2)(G) *Emergency Powers:* This section of the Act requires that states demonstrate authority comparable with section 303 of the CAA and adequate contingency plans to implement such authority. Regulation 61–62.3, *Air Pollution Episodes,* provides for contingency measures when an air pollution episode or exceedance may lead to a substantial threat to the health of persons in the state or region. S.C. Code Ann. Section 48–1–290 provides SC DHEC, with concurrent notice to the Governor, the authority to issue an order recognizing the existence of an emergency requiring immediate action as deemed necessary by SC DHEC to protect the public health or property. Any person subject to this order is required to comply immediately. Additionally, S.C. Code Ann. Section 1–23–130 provides SC DHEC with the authority to establish emergency regulations to address an imminent peril to public health, or welfare, and authorizes emergency regulations to protect natural resources if any natural resource related agency in the State finds that abnormal or unusual conditions, immediate need, or the State's best interest require such emergency action. EPA has made the preliminary determination that South Carolina's SIP, State laws, and practices are adequate for emergency powers related to the 2010 1-hour SO_2 NAAQS. Accordingly, EPA is proposing to approve South Carolina's infrastructure SIP submission with respect to section 110(a)(2)(G).

9. 110(a)(2)(H) *SIP Revisions:* Section 110(a)(2)(H), in summary, requires each SIP to provide for revisions of such plan: (i) As may be necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of attaining such standard, and (ii) whenever the Administrator finds that the plan is substantially inadequate to attain the NAAQS or to otherwise comply with any additional applicable requirements. SC DHEC is responsible for adopting air quality rules and revising SIPs as needed to attain or maintain the NAAQS in South Carolina. The State has the ability and authority to respond to calls for SIP revisions, and has provided a number of SIP revisions over the years for implementation of the NAAQS. Additionally, S.C. Code Ann. Section 48, Title 1, provides SC DHEC with the necessary authority to revise the SIP to accommodate changes in the NAAQS and thus revise the SIP as appropriate. EPA has made the preliminary determination that South Carolina adequately demonstrates a commitment to provide future SIP revisions related to the 2010 1-hour SO_2 NAAQS when necessary. Accordingly, EPA is proposing to approve South Carolina's infrastructure SIP submission with respect to section 110(a)(2)(H).

10. 110(a)(2)(J) *Consultation with Government Officials, Public Notification, and PSD and Visibility Protection:* EPA is proposing to approve South Carolina's infrastructure SIP submission for the 2010 1-hour SO_2 NAAQS with respect to the general requirement in section 110(a)(2)(J) to include a program in the SIP that complies with the applicable consultation requirements of section 121, the public notification requirements of section 127, PSD and visibility protection. EPA's rationale for each sub-element is described below.

Consultation with government officials (121 consultation): Section 110(a)(2)(J) of the CAA requires states to provide a process for consultation with local governments, designated organizations and Federal Land Managers carrying out NAAQS implementation requirements pursuant to section 121 relative to consultation. Regulation 61–62.5, Standard No. 7, *Prevention of Significant Deterioration,* as well as the State's Regional Haze Implementation Plan (which allows for consultation between appropriate state, local, and tribal air pollution control agencies as well as the corresponding Federal Land Managers), provide for consultation with government officials whose jurisdictions might be affected by SIP development activities. South Carolina has SIP-approved state-wide consultation procedures for the implementation of transportation conformity (*see* 69 FR 4245). These consultation procedures were developed in coordination with the transportation partners in the State and are consistent with the approaches used for development of mobile inventories for SIPs. Implementation of transportation conformity as outlined in the consultation procedures requires SC DHEC to consult with Federal, state and local transportation and air quality agency officials on the development of motor vehicle emissions budgets. Additionally, S.C. Code Section 48–1–50(8) provides SC DHEC with the necessary authority to ''Cooperate with the governments of the United States or other states or state agencies or organizations, officials, or unofficial, in respect to pollution control matters or for the formulation of interstate pollution control compacts or agreements.'' EPA has made the preliminary determination that South Carolina's SIP and practices adequately demonstrate consultation with government officials related to the 2010 1-hour SO_2 NAAQS when necessary. Accordingly, EPA is proposing to

approve South Carolina's infrastructure SIP submission with respect to section 110(a)(2)(J) consultation with government officials.

Public notification (127 public notification): Regulation 61–62.3, *Air Pollution Episodes,* requires that SC DHEC notify the public of any air pollution episode or NAAQS violation. S.C. Code Ann. § 48–1–60 establishes that ''Classification and standards of quality and purity of the environment [are] authorized after notice and hearing.'' Additionally, Regulation 61–62.5, Standard 7.1 (q), *Public Participation,* notifies the public by advertisement in a newspaper of general circulation in each region in which a proposed plant or modifications will be constructed of the degree of increment consumption that is expected from the plant or modification, and the opportunity for comment at a public hearing as well as written public comment. An opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the plant or modification, alternatives to the plant or modification, the control technology required, and other appropriate considerations is also offered.

EPA also notes that SC DHEC maintains a Web site that provides the public with notice of the health hazards associated with SO_2 NAAQS exceedances, measures the public can take to help prevent such exceedances, and the ways in which the public can participate in the regulatory process. See *http://www.scdhec.gov/HomeAndEnvironment/Air/MostCommonPollutants/SulfurDioxide/.* EPA has made the preliminary determination that South Carolina's SIP and practices adequately demonstrate the State's ability to provide public notification related to the 2010 1-hour SO_2 NAAQS when necessary. Accordingly, EPA is proposing to approve South Carolina's infrastructure SIP submission with respect to section 110(a)(2)(J) public notification.

PSD: With regard to the PSD element of section 110(a)(2)(J), this requirement may be met by a state's confirmation in an infrastructure SIP submission that new major sources and major modifications in the state are subject to a PSD program meeting all the current structural requirements of part C of title I of the CAA. As discussed in more detail above under the section discussing 110(a)(2)(C), South Carolina's SIP contains provisions for the State's PSD program that reflect the relevant SIP revisions pertaining to the required structural PSD requirements to satisfy the requirement of the PSD element of section 110(a)(2)(J). EPA has made the preliminary determination that South Carolina's SIP is adequate for PSD permitting of major sources and major modifications for the PSD element of section 110(a)(2)(J).

Visibility protection: EPA's 2013 Guidance notes that it does not treat the visibility protection aspects of section 110(a)(2)(J) as applicable for purposes of the infrastructure SIP approval process. SC DHEC referenced its regional haze program as germane to the visibility component of section 110(a)(2)(J). EPA recognizes that states are subject to visibility protection and regional haze program requirements under part C of the Act (which includes sections 169A and 169B). However, there are no newly applicable visibility protection obligations after the promulgation of a new or revised NAAQS. Thus, EPA has determined that states do not need to address the visibility component of 110(a)(2)(J) in infrastructure SIP submittals so SC DHEC does not need to rely on its regional haze program to fulfill its obligations under section 110(a)(2)(J). As such, EPA has made the preliminary determination that South Carolina's infrastructure SIP submission related to the 2010 1-hour SO_2 NAAQS is approvable for the visibility protection element of section 110(a)(2)(J) and that South Carolina does not need to rely on its regional haze program.

11. 110(a)(2)(K) *Air Quality Modeling and Submission of Modeling Data:* Section 110(a)(2)(K) of the CAA requires that SIPs provide for performing air quality modeling so that effects on air quality of emissions from NAAQS pollutants can be predicted and submission of such data to the EPA can be made. Regulations 61–62.5, Standard No. 2, *Ambient Air Quality Standards,* and Regulation 61–62.5, Standard No. 7, *Prevention of Significant Deterioration,* of the South Carolina SIP specify that required air modeling be conducted in accordance with 40 CFR part 51, Appendix W, *Guideline on Air Quality Models,* as incorporated into the South Carolina SIP. Also, S.C. Code Ann. section 48–1–50(14) provides SC DHEC with the necessary authority to ''Collect and disseminate information on air and water control.'' Additionally, South Carolina participates in a regional effort to coordinate the development of emissions inventories and conduct regional modeling for several NAAQS, including the 2010 1-hour SO_2 NAAQS, for the southeastern states. Taken as a whole, South Carolina's air quality regulations and practices demonstrate that SC DHEC has the authority to provide relevant data for the purpose of predicting the effect on ambient air quality of any emissions of any pollutant for which a NAAQS had been promulgated, and to provide such information to the EPA Administrator upon request. EPA has made the preliminary determination that South Carolina's SIP and practices adequately demonstrate the State's ability to provide for air quality and modeling, along with analysis of the associated data, related to the 2010 1-hour SO_2 NAAQS. Accordingly, EPA is proposing to approve South Carolina's infrastructure SIP submission with respect to section 110(a)(2)(K).

12. 110(a)(2)(L) *Permitting fees:* Section 110(a)(2)(L) requires the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under the CAA, a fee sufficient to cover (i) the reasonable costs of reviewing and acting upon any application for such a permit, and (ii) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action), until such fee requirement is superseded with respect to such sources by the Administrator's approval of a fee program under title V.

S.C. Code Ann. Section 48–2–50 prescribes that SC DHEC charge fees for environmental programs it administers pursuant to Federal and State law and regulations including those that govern the costs to review, implement and enforce PSD and NNSR permits. Regulation 61–30, *Environmental Protection Fees*[21] prescribes fees applicable to applicants and holders of permits, licenses, certificates, certifications, and registrations, establishes procedures for the payment of fees, provides for the assessment of penalties for nonpayment, and establishes an appeals process for refuting fees. This regulation may be amended as needed to meet the funding requirements of the State's permitting program. Additionally, South Carolina has a federally-approved title V program, Regulation 61–62.70, *Title V Operating Permit Program,*[22] which implements and enforces the requirements of PSD and NNSR for facilities once they begin operating. EPA has made the preliminary determination that South Carolina's SIP and practices

[21] This regulation has not been incorporated into the federally-approved SIP.

[22] Title V program regulations are federally-approved but not incorporated into the federally-approved SIP.

adequately provide for permitting fees related to the 2010 1-hour SO_2 NAAQS when necessary. Accordingly, EPA is proposing to approve South Carolina's infrastructure SIP submission with respect to section 110(a)(2)(L).

13. 110(a)(2)(M) *Consultation/participation by affected local entities:* Section 110(a)(2)(M) of the Act requires states to provide for consultation and participation in SIP development by local political subdivisions affected by the SIP. Regulation 61–62.5, Standard No. 7, *Prevention of Significant Deterioration,* of the South Carolina SIP requires that SC DHEC notify the public, which includes local entities, of an application, preliminary determination, the activity or activities involved in the permit action, any emissions change associated with any permit modification, and the opportunity for comment prior to making a final permitting decision. Also, as noted above, S.C. Code Ann. Section 48–1–50(8) allows SC DHEC to ''Cooperate with the governments of the United States or other states or state agencies or organizations, officials, or unofficial, in respect to pollution control matters or for the formulation of interstate pollution control compacts or agreements.'' By way of example, SC DHEC has recently worked closely with local political subdivisions during the development of its Transportation Conformity SIP, Regional Haze Implementation Plan, and Ozone Early Action Compacts. EPA has made the preliminary determination that South Carolina's SIP and practices adequately demonstrate consultation with affected local entities related to the 2010 1-hour SO_2 NAAQS. Accordingly, EPA is proposing to approve South Carolina's infrastructure SIP submission with respect to section 110(a)(2)(M).

V. Proposed Action

With the exception of interstate transport provisions pertaining to the contribution to nonattainment or interference with maintenance in other states and visibility protection requirements of section 110(a)(2)(D)(i)(I) and (II) (prongs 1, 2, and 4), EPA is proposing to approve South Carolina's May 8, 2014, SIP submission for the 2010 1-hour SO_2 NAAQS for the above described infrastructure SIP requirements. EPA is proposing to approve these portions of South Carolina's infrastructure SIP submission for the 2010 1-hour SO_2 NAAQS because these aspects of the submission are consistent with section 110 of the CAA.

VI. Statutory and Executive Order Reviews

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

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

In addition, this proposed action for the state of South Carolina does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). The Catawba Indian Nation Reservation is located within the State of South Carolina. Pursuant to the Catawba Indian Claims Settlement Act, South Carolina statute 27–16–120, ''all state and local environmental laws and regulations apply to the [Catawba Indian Nation] and Reservation and are fully enforceable by all relevant state and local agencies and authorities.'' However, EPA has determined that because this proposed rule does not have substantial direct effects on an Indian Tribe because, as noted above, this action is not approving any specific rule, but rather proposing that South Carolina's already approved SIP meets certain CAA requirements. EPA notes today's action will not impose substantial direct costs on Tribal governments or preempt Tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: February 19, 2016.

Heather McTeer Toney,

Regional Administrator, Region 4.

[FR Doc. 2016–04728 Filed 3–4–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2014–0664; FRL–9943–32–Region 5]

Air Plan Approval; Illinois; Base Year Emission Inventories for the 2008 8-Hour Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the Illinois Environmental Protection Agency (IEPA) on September 3, 2014, to address emission inventory requirements for the Illinois portions of the Chicago-Naperville, Illinois-Indiana-Wisconsin and St. Louis, Missouri-Illinois ozone nonattainment areas under the 2008 ozone National Ambient Air Quality Standard. The Clean Air Act (CAA) requires emission inventories for all ozone nonattainment areas. The emission inventories contained in Illinois' September 3, 2014, submission meet this CAA requirement.

DATES: Comments must be received on or before April 6, 2016.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2014–0664 at *http://www.regulations.gov* or via email to *Aburano.Douglas@epa.gov.* For comments submitted at Regulations.gov, follow the online instructions for

submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, 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, please contact the person identified in the ''For Further Information Contact'' section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Edward Doty, Air Programs Branch (AR–18J), Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6057, *Doty.Edward@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules section of this **Federal Register,** EPA is approving IEPA's SIP revision as a direct final rule without prior proposal because EPA views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives 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 rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that, if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions 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.**

Dated: February 22, 2016.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

[FR Doc. 2016–04877 Filed 3–4–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2015–0205; FRL–9943–27–Region 8]

Designation of Areas for Air Quality Planning Purposes; Redesignation Request and Associated Maintenance Plan for Billings, MT 2010 SO_2 Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On December 14, 2015, the State of Montana submitted a request for the Environmental Protection Agency (EPA) to redesignate the Billings, Montana, 2010 sulfur dioxide (SO_2) National Ambient Air Quality Standard (NAAQS) nonattainment area to attainment and to approve a State Implementation Plan (SIP) revision containing a maintenance plan for the area. In response to this submittal, the EPA is proposing to take the following actions: Determine that the Billings SO_2 nonattainment area is attaining the 2010 SO_2 primary NAAQS; approve Montana's plan for maintaining attainment of the 2010 SO_2 primary NAAQS in the area; and redesignate the Billings SO_2 nonattainment area to attainment for the 2010 SO_2 primary NAAQS.

DATES: Comments must be received on or before April 6, 2016.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2015–0205, at *http://www.regulations.gov* Web site. 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: 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. General Information

What should I consider as I prepare my comments for EPA?

1. *Submitting Confidential Business Information (CBI).* Do not submit CBI to the EPA through *www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to the EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns and suggest alternatives.

- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

II. What is the background for the EPA's proposed actions?

On June 2, 2010, the EPA revised the primary SO_2 NAAQS, establishing a new 1-hour SO_2 standard of 75 parts per billion (ppb). *See* 75 FR 35520 (June 2, 2010). Under the EPA's regulations at 40 CFR part 50, the 2010 1-hour SO_2 NAAQS is met at a monitoring site when the 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations is less than or equal to 75 ppb (based on the rounding convention in 40 CFR part 50, appendix T). *See* 40 CFR 50.17. Ambient air quality monitoring data for the 3-year period must meet a data completeness requirement. A year meets data completeness requirements when all 4 quarters are complete, and a quarter is complete when at least 75 percent of the sampling days for each quarter have complete data. A sampling day has complete data if 75 percent of the hourly concentration values, including state-flagged data affected by exceptional events which have been approved for exclusion by the Administrator, are reported.[1]

Upon promulgation of a new or revised NAAQS, the CAA requires the EPA to designate as nonattainment any area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet) the NAAQS.[2] At the time the EPA conducted the initial round of designations for the 2010 1-hour SO_2 primary NAAQS,[3] Billings contained an SO_2 monitor (Coburn Road) which registered violations of the standard based on the three most recent years of complete, quality assured, and certified ambient air quality data. In a letter to the EPA, Montana Governor Brian Schweitzer requested that all 56 counties in Montana be designated as attainment or unclassifiable. The EPA responded to Montana's initial designations request in a February 6, 2013 letter in which the EPA disagreed with Montana's request to classify Yellowstone County (which includes Billings) as unclassifiable for the 2010 1-hour SO_2 standard and presented the case that all of Yellowstone County should be designated as nonattainment. In an April 3, 2013 letter to the EPA, Montana reiterated its request that Yellowstone County be designated unclassifiable, but requested an alternative nonattainment area boundary consisting of only a small portion of Billings if the EPA determined that a nonattainment designation was appropriate. The EPA agreed with the State's technical rationale for reducing the nonattainment area to a small portion of Billings which included only one source of SO_2: The PPL Corette Power Plant.[4] The EPA found that Montana's technical analysis demonstrated that the PPL Corette plant was the key contributor to the 2010 SO_2 NAAQS violations at the Coburn Road monitor. The EPA, therefore, designated the area recommended by Montana as nonattainment for the 2010 SO_2 NAAQS on August 5, 2013, (effective October 4, 2013) using 2009–2011 ambient air quality data, leaving the remaining portion of Billings and Yellowstone County undesignated and subject to future analysis and designation. *See* 78 FR 47191 (August 5, 2013). This nonattainment designation established an attainment date five years after the October 4, 2013, effective date for areas classified as nonattainment for the 2010 1-hour SO_2 NAAQS.[5] Therefore, the Billings SO_2 nonattainment area's attainment date is October 4, 2018. The Montana Department of Environmental Quality (MDEQ) was also required to submit an attainment SIP to EPA within 18 months following the October 4, 2013 effective date of designation, or by April 6, 2015.[6]

On January 16, 2015, MDEQ submitted a request for the EPA to determine that the Billings SO_2 nonattainment area has attained the 2010 SO_2 NAAQS per the EPA's ''clean data policy'' (Billings 2010 SO_2 Clean Data Request).[7] The clean data policy represents the EPA's interpretation that certain planning-related requirements of part D of the Act, such as the attainment demonstration, reasonably available control measures (RACM), and reasonable further progress (RFP), are suspended for areas that are in fact attaining the NAAQS. The clean data policy will be explained further in Section IV of this proposed rulemaking. A determination of attainment, or clean data determination, does not constitute a formal redesignation to attainment. If EPA subsequently determines that an area is no longer attaining the standard, those requirements that were suspended by the clean data determination are once again due.

On April 10, 2015, James Parker of PPL Montana sent a letter to Ed Warner of MDEQ notifying him that the PPL Corette Plant was officially retired on March 18, 2015, and had consumed its last coal on March 3, 2015. On May 13, 2015, Gordon Criswell of PPL Montana sent a letter to MDEQ requesting a revocation of the Montana Air Quality Permit (MAQP) #2953–00 and Title V Operating Permit #OP2953–08. On May 21, 2015, David Klemp of MDEQ sent a letter to Mr. Criswell informing him that MDEQ was revoking both permits, as PPL had requested, effective immediately.

On December 14, 2015, the State submitted to the EPA a request for redesignation of the Billings 2010 SO_2 nonattainment area to attainment and a SIP revision containing a maintenance plan for the area.

III. What are the criteria for redesignation?

The CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) of the CAA allows for redesignation of a nonattainment area provided that: (1) The Administrator determines that the area has attained the applicable NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k); (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP and applicable federal air pollutant control regulations and other permanent and enforceable reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and (5) the state containing such area has met all requirements applicable to the area for purposes of redesignation under section 110 and part D of the CAA.

On April 16, 1992, the EPA provided guidance on redesignation in the General Preamble for the Implementation of title I of the CAA Amendments of 1990 (57 FR 13498), and supplemented this guidance on

[1] 40 CFR part 50, appendix T, section 3(b).

[2] CAA section 107(d)(1)(A)(i).

[3] The EPA finalized nonattainment designations for 29 areas of the U.S. that contained SO_2 monitors violating the NAAQS on August 5, 2013 (78 FR 47191, 47205), and took no designation-related action on the rest of the country. The EPA was placed under a binding schedule for designation of the remaining portions of the U.S. for the 2010 1-hour SO_2 NAAQS on March 2, 2015. *See, Sierra Club, et al.* v. *McCarthy,* Case No. 13–cv–03953–SI (N.D. Cal., March 2, 2015).

[4] Montana's recommended alternative boundary, now the Billings 2010 SO_2 Nonattainment Area, can be found in the Billings Redesignation Request at 13.

[5] CAA section 192.

[6] CAA section 191.

[7] The Billings 2010 SO_2 Clean Data Request is available in the docket for this action.

April 28, 1992 (57 FR 18070). The EPA has provided further guidance on processing redesignation requests in several guidance documents. For the purposes of this action, the EPA will be referencing two of these documents: (1) The September 4, 1992 Memorandum from John Calcagni titled ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' (hereafter referred to as the ''Calcagni Memo''); and (2) The April 23, 2014 Memorandum from Stephen D. Page titled ''Guidance for 1-Hour SO_2 Nonattainment Area SIP Submissions,'' (hereafter referred to as ''2010 SO_2 NAA Guidance'').

IV. What is EPA's analysis of the request?

EPA's evaluation of Montana's redesignation request and maintenance plan was based on consideration of the five redesignation criteria provided under CAA section 107(d)(3)(E).

Criteria (1)—The Billings SO_2 Nonattainment Area Has Attained the 2010 1-Hour SO_2 NAAQS

For redesignating a nonattainment area to attainment, the CAA requires the EPA to determine that the area has attained the applicable NAAQS (CAA section 107(d)(3)(E)(i)). The two primary methods for evaluating ambient air quality impacted by SO_2 emissions are through dispersion modeling and air quality monitoring. For SO_2, an area may in some circumstances be considered to be attaining the 2010 1-hour SO_2 NAAQS if it meets the NAAQS as determined in accordance with 40 CFR 50.17 and Appendix T of part 50, based on three complete, consecutive calendar years of quality-assured air quality monitoring data. To attain the NAAQS based on monitoring, the 3-year average of the annual 99th percentile (fourth highest value) of 1-hour daily maximum concentrations measured at each monitor within an area must be less than or equal to 75 ppb. The data must be collected and quality-assured in accordance with 40 CFR part 58 and recorded in the EPA Air Quality System (AQS). The EPA's determination of attainment can be based on monitoring data alone, without the need for dispersion modeling analyses, if the air agency provides an analysis demonstrating that the monitor(s) for the affected area is located in the area of maximum ambient concentration of SO_2.[8]

In this action, the EPA is determining that the Billings SO_2 nonattainment area is attaining the 2010 1-hour SO_2 NAAQS. The EPA reviewed SO_2 monitoring data from the lone monitoring station inside the Billings SO_2 nonattainment area, the Coburn Road station. The Coburn Road monitor data have been quality-assured, are recorded in AQS, and indicate that the area is attaining the 2010 1-hour SO_2 NAAQS. The fourth-highest 1-hour SO_2 values at the Coburn Road monitor for the 3-year averages of these values (*i.e.,* design values), are summarized in Table 1, below.

TABLE 1—COBURN ROAD MONITORED SO_2 CONCENTRATIONS

	2012	2013	2014	2012–2014 Design value
Annual 99th Percentile	70	48	93	70

As shown, the 3-year design value for 2012–2014 at the Coburn Road monitor meets the 2010 SO_2 NAAQS. Further, the EPA expects the SO_2 emissions at this monitor to decrease significantly following the shutdown of the PPL Corette facility. Since the facility last operated on March 3, 2015, the values at the Coburn Road monitor have not exceeded 19 ppb SO_2. This trend is anticipated to be permanent, as the State indicated in its analysis that SO_2 emissions have since 2010 consistently decreased to levels well below the NAAQS during times when PPL Corette was not operating.[9]

As part of Montana's redesignation request, the State submitted information to support a showing that the Coburn Road monitor was sited in the area of maximum ambient SO_2 concentration within the Billings SO_2 nonattainment area in accordance with the 2010 SO_2 NAA Guidance. This showing included data from historical monitors near the Coburn Road monitor which consistently showed lower values than those at Coburn Road. The EPA has reviewed Montana's information regarding this showing, but finds that it is no longer applicable to the current SO_2 emissions mix in the Billings SO_2 nonattainment area because the sole SO_2 source in the area (PPL Corette) has shut down. The EPA does not find it necessary to require the State to conduct new modeling or exploratory monitoring as recommended by EPA's May 2013 Draft Monitoring Technical Assistance Document (TAD)[10] to determine the point of maximum concentration in the nonattainment area because the source of concern in the area has shut down and been dismantled, resulting in SO_2 concentrations well below the standard.

In this action, the EPA is proposing to determine that the Billings SO_2 nonattainment area is attaining the 2010 1-hour SO_2 NAAQS, and therefore meets the requirements of CAA section 107(d)(3)(E)(i). If the 3-year design value exceeds the NAAQS prior to the EPA taking action in response to the State's request, the EPA will not take final action to approve the redesignation request.[11] As discussed in more detail below, Montana has committed to continue monitoring in this area in accordance with 40 CFR part 58.

As noted, Montana separately submitted to the EPA a request for a determination of clean data for the Billings SO_2 nonattainment area on January 16, 2015. The clean data policy represents the EPA's interpretation that certain requirements of part D of title I of the Act are suspended for areas that are currently attaining the NAAQS. The requirements that are suspended in an area attaining the standard include the requirements to submit an ''attainment SIP'' that provides for: Attainment of the NAAQS; implementation of all RACM; RFP; and implementation of contingency measures for failure to meet deadlines for RFP and attainment. In the 2010 SO_2 NAA guidance, the EPA

[8] See 2010 SO_2 NAA Guidance, at 62.

[9] Billings Redesignation Request at 8–12.

[10] On page 58 of the 2010 SO_2 NAA Guidance, EPA recommends that air agencies follow the Draft ''SO_2 NAAQS Designations Source-Oriented Monitoring Technical Assistance Document,'' Office of Air Quality Planning and Standards, Air Quality Assessment Division. Although this 2010 SO_2 NAA Guidance references the Draft monitoring TAD with regard to reviewing clean data determinations, the EPA also considers the TAD recommendations applicable to attainment demonstrations.

[11] See 2010 SO_2 NAA Guidance, at 56.

explained our intention to apply the EPA's clean data policy to the 2010 SO_2 primary NAAQS.[12] Because EPA's analysis in determining whether an area has attained under the clean data policy is the same as its analysis under the first redesignation criterion, EPA is also here proposing that the Billings SO_2 nonattainment area qualifies for a determination of attainment under the clean data policy, based on the 2012–2014 monitoring data from the Coburn Road monitor. In the event that EPA does not finalize the proposed redesignation, EPA may choose to separately finalize the clean data determination, thereby suspending Montana's obligation to submit the attainment planning-related requirements for the area for as long as the area continues to attain the standard. As with its analysis that the area has attained under the redesignation requirements, for purposes of the clean data determination, the EPA is not requiring Montana to demonstrate that the monitor is located in the area of maximum concentration in accordance with the 2010 SO_2 NAA Guidance due to the unique circumstances associated with the PPL Corette shutdown.[13]

Criteria (2)—Montana Has a Fully Approved SIP Under Section 110(k); and Criteria (5)—Montana Has Met All Applicable Requirements Under Section 110 and Part D of Title I of the CAA

For redesignating a nonattainment area to attainment under a NAAQS, the CAA requires the EPA to determine that the state has met all applicable requirements for that NAAQS under section 110 and part D of title I of the CAA (CAA section 107(d)(3)(E)(v)) and that the state has a fully approved SIP under section 110(k) for that NAAQS for the area (CAA section 107(d)(3)(E)(ii)). The EPA proposes to find that Montana has met all applicable SIP requirements for the Billings SO_2 nonattainment area for the 2010 SO_2 NAAQS under section 110 of the CAA (general SIP requirements) for purposes of redesignation. Additionally, the EPA proposes to find that the Montana SIP satisfies the criterion that it meets applicable SIP requirements for purposes of redesignation under part D of title I of the CAA in accordance with section 107(d)(3)(E)(v). Further, the EPA proposes to determine that the SIP is fully approved with respect to all requirements applicable for the 2010 SO_2 NAAQS for purposes of redesignation in accordance with section 107(d)(3)(E)(ii). In making these determinations, the EPA ascertained which requirements are applicable to the Billings SO_2 nonattainment area and, if applicable, that they are fully approved under section 110(k).

a. The Billings SO_2 Nonattainment Area Has Met All Applicable Requirements Under Section 110 and Part D of the CAA

General SIP requirements. General SIP elements and requirements are delineated in section 110(a)(2) of title I, part A of the CAA. These requirements include, but are not limited to, the following: Submittal of a SIP that has been adopted by the state after reasonable public notice and hearing; provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality; implementation of a source permit program; provisions for the implementation of part C requirements (Prevention of Significant Deterioration (PSD)) and provisions for the implementation of part D requirements (New Source Review (NSR) permit programs); provisions for air pollution modeling; and provisions for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) requires that SIPs contain certain measures to prevent sources in a state from significantly contributing to air quality problems in another state. To implement this provision, the EPA has required certain states to establish programs to address the interstate transport of air pollutants. The section 110(a)(2)(D) requirements for a state are not linked with a particular nonattainment area's designation and classification in that state. The EPA believes that the requirements linked with a particular nonattainment area's designation and classifications are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the state. Thus, the EPA does not believe that the CAA's interstate transport requirements should be construed to be applicable requirements for purposes of redesignation.

In addition, the EPA believes other section 110 elements that are neither connected with nonattainment plan submissions nor linked with an area's attainment status are applicable requirements for purposes of redesignation. The area will still be subject to these requirements after the area is redesignated. The section 110 and part D requirements which are linked with a particular area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request. This approach is consistent with the EPA's existing policy on applicability (*i.e.,* for redesignations) of conformity and oxygenated fuels requirements, as well as with section 184 ozone transport requirements. *See* Reading, Pennsylvania, proposed and final rulemakings (61 FR 53174–53176, October 10, 1996), (62 FR 24826, May 7, 2008); Cleveland-Akron-Loraine, Ohio, final rulemaking (61 FR 20458, May 7,1996); and Tampa, Florida, final rulemaking at (60 FR 62748, December 7, 1995). *See also* the discussion on this issue in the Cincinnati, Ohio, redesignation (65 FR 37890, June 19, 2000), and in the Pittsburgh, Pennsylvania, redesignation (66 FR 50399, October 19, 2001).

Title I, Part D, applicable SIP requirements. Section 172(c) of the CAA sets forth the basic requirements of attainment plans for nonattainment areas that are required to submit them pursuant to section 172(b). Subpart 5 of part D, which includes section 191 and 192 of the CAA, establishes requirements for SO_2, nitrogen dioxide and lead nonattainment areas. A thorough discussion of the requirements contained in sections 172(c) can be found in the General Preamble for Implementation of Title I (57 FR 13498).

Subpart 5 Section 172 Requirements. Section 172(c)(1) requires the plans for all nonattainment areas to provide for the implementation of all RACM as expeditiously as practicable and to provide for attainment of the NAAQS. The EPA interprets this requirement to impose a duty on all nonattainment areas to consider all available control measures and to adopt and implement such measures as are reasonably available for implementation in each area as components of the area's attainment demonstration. Under section 172, states with nonattainment areas must submit plans providing for timely attainment and meeting a variety of other requirements.

The EPA's longstanding interpretation of the nonattainment planning requirements of section 172 is that once an area is attaining the NAAQS, those requirements are not ''applicable'' for purposes of CAA section 107(d)(3)(E)(ii) and therefore need not be approved into the SIP before the EPA can redesignate the area. In the 1992 General Preamble for Implementation of Title I, the EPA set forth its interpretation of applicable requirements for purposes of evaluating redesignation requests when an area is attaining a standard. *See* 57 FR 13498,

[12] Id. at 52.

[13] Id. at 58.

13564 (April 16, 1992). The EPA noted that the requirements for RFP and other measures designed to provide for attainment do not apply in evaluating redesignation requests because those nonattainment planning requirements ''have no meaning'' for an area that has already attained the standard. *Id.* This interpretation was also set forth in the Calcagni Memo. The EPA's understanding of section 172 also forms the basis of its Clean Data Policy, which was articulated with regard to SO_2 in the 2010 SO_2 NAA Guidance, and suspends a state's obligation to submit most of the attainment planning requirements that would otherwise apply, including an attainment demonstration and planning SIPs to provide for RFP, RACM, and contingency measures under section 172(c)(9). Courts have upheld the EPA's interpretation of section 172(c)(1) for ''reasonably available'' control measures and control technology as meaning only those controls that advance attainment, which precludes the need to require additional measures where an area is already attaining. *NRDC* v. *EPA,* 571 F.3d 1245, 1252 (D.C. Cir. 2009); *Sierra Club* v. *EPA,* 294 F.3d 155, 162 (D.C. Cir. 2002); *Sierra Club* v. *EPA,* 314 F.3d 735, 744 (5th Cir. 2002); *Sierra Club* v. *EPA,* 375 F.3d 537 (7th Cir. 2004). But see *Sierra Club* v. *EPA,* 793 F.3d 656 (6th Cir. 2015).

Therefore, because attainment has been reached in the Billings SO_2 nonattainment area, no additional measures are needed to provide for attainment, and section 172(c)(1) requirements for an attainment demonstration and RACM are not part of the ''applicable implementation plan'' required to have been approved prior to redesignation per CAA section 107(d)(3)(E)(ii). The other section 172 requirements that are designed to help an area achieve attainment—the section 172(c)(2) requirement that nonattainment plans contain provisions promoting reasonable further progress, the requirement to submit the section 172(c)(9) contingency measures, and the section 172(c)(6) requirement for the SIP to contain control measures necessary to provide for attainment of the NAAQS—are also not required to be approved as part of the ''applicable implementation plan'' for purposes of satisfying CAA section 107(d)(3)(E)(ii).

Section 172(c)(3) requires submission and approval of a comprehensive, accurate, and current inventory of actual emissions. The requirement for an emission inventory can be satisfied by meeting the inventory requirements of the maintenance plan.[14] MDEQ submitted an emissions inventory as part of the maintenance plan for the Billings SO_2 nonattainment area, and this inventory will be discussed further in the maintenance plan portion of this proposed action.

Section 172(c)(4) requires the identification and quantification of allowable emissions for major new and modified stationary sources to be allowed in an area, and section 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. The EPA has determined that, since PSD requirements will apply after redesignation, areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR. A more detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled ''Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment.'' MDEQ has demonstrated that the Billings SO_2 nonattainment area will be able to maintain the NAAQS without part D NSR in effect, and therefore Montana need not have fully approved part D NSR programs prior to approval of the redesignation request. Montana's PSD program will become effective in the Billings SO_2 nonattainment area upon redesignation to attainment.

Section 172(c)(7) requires the SIP to meet the applicable provisions of section 110(a)(2). As noted above, the EPA believes the Montana SIP meets the requirements of section 110(a)(2) applicable for purposes of redesignation.

Section 176 Conformity Requirements. Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that federally supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs, and projects that are developed, funded, or approved under title 23 of the United States Code (U.S.C.) and the Federal Transit Act (transportation conformity) as well as to all other federally supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with federal conformity regulations relating to consultation, enforcement, and enforceability that the EPA promulgated pursuant to its authority under the CAA.

Montana has an approved general conformity SIP for the Billings area. *See* 67 FR 62392 (October 7, 2002). Moreover, the EPA interprets the conformity SIP requirements as not applying for purposes of evaluating a redesignation request under section 107(d) because, like other requirements listed above, state conformity rules are still required after redesignation and federal conformity rules apply where state rules have not been approved. *See Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001) (upholding this interpretation); *see also* 60 FR 62748 (December 7, 1995) (redesignation of Tampa, Florida).

For these reasons, the EPA proposes to find that Montana has satisfied all applicable requirements for purposes of redesignation of the Billings SO_2 nonattainment area under section 110 and part D of title I of the CAA.

b. The Billings SO_2 Nonattainment Area Has a Fully Approved Applicable SIP Under Section 110(k) of the CAA

The EPA has fully approved the applicable Montana SIP for the Billings Area under section 110(k) of the CAA for all requirements applicable for purposes of redesignation. As indicated above, the EPA believes that the section 110 elements that are neither connected with nonattainment plan submissions nor linked to an area's nonattainment status are not applicable requirements for purposes of redesignation. The EPA has approved all part D requirements applicable under the 2010 SO_2 NAAQS, as identified above, for purposes of this redesignation.

Criteria (3)—The Air Quality Improvement in the Billings SO_2 Nonattainment Area Is Due to Permanent and Enforceable Reductions in Emissions

For redesignating a nonattainment area to attainment, the CAA requires the EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, applicable federal air pollution control regulations, and other permanent and enforceable reductions (CAA section 107(d)(3)(E)(iii)). The EPA proposes to find that Montana has demonstrated that the observed air quality improvement in the Billings SO_2 nonattainment area is due to permanent and enforceable reductions in emissions. Specifically, the EPA considers the shutdown of the PPL Corette Plant, identified as the key

[14] Calcagni Memo at 6.

contributor to the SO_2 NAAQS violations at the Coburn Road monitor,[15] to be both permanent and enforceable. The EPA notes that the Corette facility was still operating (though not continuously)[16] during the 2012–2014 period during which the 2010 SO_2 NAAQS was attained in the Billings nonattainment area. Given the well-established correlation of much lower SO_2 emissions at the Coburn Road monitor during periods when Corette has not operated, EPA anticipates that the SO_2 NAAQS will only attain by a greater margin following the facility's shutdown. As stated in the Calcagni Memo, ''Emission reductions from source shutdowns can be considered permanent and enforceable to the extent that those shutdowns have been reflected in the SIP and all applicable permits have been modified accordingly.''[17] MDEQ revoked PPL's Title V (operating) and NSR permits for the Corette facility.[18] Further, the PPL Corette facility has been dismantled, making its future operation impossible and thus displaying the permanence of the emissions reductions in the nonattainment area. Any new sources that may come into being within the area would be required to demonstrate that their new SO_2 emissions would not interfere with attainment and maintenance of the 2010 SO_2 NAAQS. Therefore, the EPA is proposing to find that the air quality improvement in the Billings SO_2 nonattainment area is due to permanent and enforceable reductions in emissions.

Criteria (4)—The Billings SO_2 Nonattainment Area Has a Fully Approved Maintenance Plan Pursuant to Section 175A of the CAA

To redesignate a nonattainment area to attainment, the CAA requires the EPA to determine that the area has a fully approved maintenance plan pursuant to section 175A of the CAA (CAA section 107(d)(3)(E)(iv)). In conjunction with its request to redesignate the Billings SO_2 nonattainment area to attainment for the 2010 1-hour SO_2 NAAQS, MDEQ submitted a SIP revision to provide for the maintenance of the 2010 1-hour SO_2 NAAQS for at least 10 years after the effective date of redesignation to attainment. The EPA is proposing to find that this maintenance plan for the area meets the requirements for approval under section 175A of the CAA.

a. What is required in a maintenance plan?

CAA section 175A sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan demonstrating that attainment will continue to be maintained for the 10 years following the initial 10-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures as the EPA deems necessary to assure prompt correction of any future 2010 1-hour SO_2 violations. The Calcagni Memo provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five requirements: The attainment emissions inventory, maintenance demonstration, monitoring, verification of continued attainment, and a contingency plan. As is discussed more fully below, the EPA is proposing to determine that Montana's maintenance plan includes all the necessary components and is thus proposing to approve it as a revision to the Montana SIP.

b. Attainment Emissions Inventory

As part of a state's maintenance plan for a 2010 SO_2 nonattainment area, the air agency should develop an attainment inventory to identify the level of emissions in the affected area which is sufficient to attain and maintain the SO_2 NAAQS.[19] Montana selected 2014 as the base year (*i.e.,* attainment emissions inventory year) for developing an emissions inventory for SO_2 in the nonattainment area through 2024. In 2014, the final full calendar year in which PPL Corette was permitted to operate prior to the March 2015 shutdown, the facility emitted 1,433 tons of SO_2.[20]

In 2014, the Coburn Road monitor reported exceedances of the 2010 SO_2 NAAQS on eight different days, giving the monitor a 99th percentile (4th highest 1-hour daily maximum concentration) of 93 ppb. Regardless, the 2014 emissions level of 1,433 tons of SO_2 is the lowest level of any year in the attaining 2012 to 2014 period, making it the most conservative option for the purposes of ensuring future maintenance of the NAAQS (see Table 2). The EPA has therefore determined that this is a level sufficient to attain the 2010 1-hour SO_2 NAAQS, and is proposing to find that the attainment inventory submitted as part of Montana's maintenance plan meets the ''Attainment Emissions Inventory'' requirement.

TABLE 2—ANNUAL SO_2 EMISSIONS IN BILLINGS NONATTAINMENT AREA

Year	2012	2013	2014
Annual SO_2 Emissions (tons)	1,884	2,247	1,433

The EPA notes that the permanent shutdown of PPL Corette has left the Billings SO_2 nonattainment area with no sources of SO_2, and the maintenance plan for the area contains an emissions inventory (in the ''Maintenance Demonstration'' section) which projects a level of zero SO_2 emissions in the nonattainment area for each year from 2016 through 2024. The EPA therefore does not anticipate emissions activity in the 2010 SO_2 nonattainment area that will approach 1,433 tons of SO_2.

c. Maintenance Demonstration

An air agency may generally demonstrate maintenance of the NAAQS by either showing that future emissions of SO_2 will not exceed the level of the attainment inventory, or by modeling to show that the future mix of sources and emission rates will not cause a violation of the NAAQS.[21] Montana has demonstrated maintenance by showing that future year emissions

[15] See EPA's final Technical Support Document (TSD) for the Billings SO_2 Nonattainment Area, in the docket for EPA's initial round of 2010 SO_2 designations at EPA–HQ–OAR–2012–0233–0318.

[16] The Corette facility did not operate for several consecutive months in both 2012 and 2014.

[17] Calcagni Memo at 10.

[18] Permit revocation letters are included in the docket for this action.

[19] See 2010 SO_2 NAA Guidance, at 66.

[20] PPL Corette did not operate for nearly five months during 2014.

[21] See 2010 SO_2 NAA Guidance at 67.

(through ''out year'' 2024) of SO_2 in the maintenance area are expected to remain at zero following the PPL Corette shutdown. The State's projected emissions inventory [22] has been reproduced as Table 3, below:

TABLE 3—BILLINGS SO_2 NONATTAINMENT AREA SO_2 PROJECTED EMISSIONS INVENTORY

Year	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Annual SO_2 Emissions (tons)	1433	460	0	0	0	0	0	0	0	0	0

The EPA considers the inventory projection of zero emissions sufficient to attain and maintain the SO_2 NAAQS. The EPA is therefore also proposing to find that the State's ''Maintenance Demonstration'' requirement is met based on this projected emissions inventory.

d. Monitoring Network

Montana has committed to continue operating the Coburn Road monitor at its current location in the Billings SO_2 nonattainment area. The State also committed to operating the monitor in accordance with the requirements of 40 CFR part 58, and have thus addressed the requirement for monitoring. The EPA approved Montana's monitoring plan on January 13, 2015. The EPA is proposing to find that Montana's maintenance plan meets the ''Monitoring Network'' requirement.

e. Verification of Continued Attainment

Each air agency should ensure that it has the legal authority to implement and enforce all measures necessary to attain and maintain the 2010 SO_2 NAAQS. The air agency's submittal should indicate how it will track the progress of the maintenance plan for the area either through air quality monitoring or modeling.[23]

The State of Montana has the legal authority to enforce and implement the maintenance plan for the Billings 2010 SO_2 nonattainment area. This includes the authority to adopt, implement, and enforce any subsequent emissions control contingency measures determined to be necessary to correct future SO_2 attainment problems.[24] As noted, the State will track the progress of the maintenance plan by continuing to operate the Coburn Road monitor. For these reasons, the EPA is proposing to find that Montana's maintenance plan meets the ''Verification of Continued Attainment'' requirement.

f. Contingency Measures in the Maintenance Plan

Section 175A of the CAA requires that a maintenance plan include such contingency measures as the EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation, and a time limit for action by the state. A state should also identify specific indicators to be used to determine when the contingency measures need to be implemented. The maintenance plan must also include a requirement that a state will implement all measures with respect to control of the pollutant that were contained in the SIP before redesignation of the area to attainment in accordance with section 175A(d).

The contingency plan includes a triggering mechanism to determine when contingency measures are needed and a process of developing and implementing appropriate control measures. The State listed two types of triggers of its contingency plan. The first, a ''warning level response,'' will be triggered by a 99th percentile of 1-hour daily maximum SO_2 values greater than 65 ppb in a single calendar year. The second, an ''action level response,'' is triggered when such a value exceeds 70 ppb in a single calendar year.

If the warning level response is triggered, the State must conduct a study to determine whether the SO_2 values near the level of the 2010 SO_2 NAAQS (75 ppb) are the result of a trend, and if so, what control measures are necessary to reverse that trend. The implementation of the control measures stemming from a warning level response will take place no later than 18 months after the end of the calendar year in which a determination requiring control measures was made. If the action level response is triggered and is not found to be due to an exceptional event as defined at 40 CFR part 50.1(j), the State will work with the entity or entities believed to be responsible for the high levels of SO_2 to evaluate control measures necessary to ensure future attainment of the NAAQS. Montana must submit to the EPA its analysis demonstrating that the proposed control measures are adequate to ensure continued maintenance of the 2010 SO_2 NAAQS in the area or to return the area to attainment of the NAAQS. The implementation of the control measures stemming from an action level response will take place no later than 18 months after the end of the calendar year in which the action level response was prompted. Montana noted that, since the only source in the nonattainment area has shut down, it is not possible at this time to develop specific contingency measures until the cause of the elevated concentrations is known. The EPA is proposing to find that Montana's maintenance plan meets the ''Contingency Measures'' requirement.

The EPA has concluded that the maintenance plan adequately addresses the five basic components of a maintenance plan: The attainment emissions inventory, maintenance demonstration, monitoring, verification of continued attainment, and a contingency plan. Therefore, the EPA proposes to find that the maintenance plan SIP revision submitted by Montana for the Billings 2010 SO_2 nonattainment area meets the requirements of section 175A of the CAA and is approvable.

V. What are the actions the EPA is proposing to take?

The EPA is proposing to take the following four separate but related actions: (1) Determine that the Billings SO_2 nonattainment area is attaining the 2010 1-hour SO_2 NAAQS; (2) Approve Montana's plan for maintaining the 2010 1-hour SO_2 NAAQS (maintenance plan); (3) Redesignate the Billings SO_2 nonattainment area to attainment for the 2010 1-hour SO_2 NAAQS; and (4) determine that the Billings SO_2 nonattainment area has clean monitoring data. Section IV of this notice provides a discussion of each of these proposed actions.

The EPA proposes to determine that the Billings SO_2 nonattainment area has attained the 2010 1-hour SO_2 standard by the October 4, 2018, required attainment date. This determination is based on complete, quality-assured, and

[22] The State's emissions inventory projection is listed as Figure 3.2 in the Billings SO_2 Redesignation Request, at 23.

[23] 2010 SO_2 Guidance at 67–68.

[24] EPA last determined that Montana's SIP was sufficient to meet the requirements of 110(a)(2)(E)(i) of the CAA on July 30, 2013 (78 FR 45864).

certified monitoring data for the 2012–2014 monitoring period. The EPA is also proposing to approve the maintenance plan under the 2010 NAAQS for the Billings SO_2 nonattainment area into the Montana SIP (under CAA section 175A). The maintenance plan demonstrates that the area will continue to maintain the 2010 1-hour SO_2 NAAQS, and includes a process to develop contingency measures to remedy any future violations of the 2010 1-hour SO_2 NAAQS and procedures for evaluation of potential violations.

Additionally, the EPA is proposing to determine that the Billings SO_2 nonattainment area has met the criteria under CAA section 107(d)(3)(E) for redesignation from nonattainment to attainment for the 2010 1-hour SO_2 NAAQS. On this basis, the EPA is proposing to approve Montana's redesignation request for the area. Final approval of Montana's redesignation request would change the legal designation of the portion of Yellowstone County designated nonattainment at 40 CFR part 81.327 to attainment for the 2010 1-hour SO_2 NAAQS.

The EPA is also proposing to determine that the Billings SO_2 nonattainment area has attaining monitoring data for the 2010 SO_2 primary NAAQS based on the most recent complete three-year period (2012–2014) design value period that meets the clean data policy. As noted elsewhere, in the event that EPA does not finalize the proposed redesignation, EPA may choose to separately finalize the clean data determination, thereby suspending the attainment planning-related requirements for the area.

In this action, the EPA is not proposing to take any action on the Billings/Laurel SO_2 area that was the subject of a SIP Call (67 FR 22168, May 2, 2002) and for which EPA promulgated a FIP (77 FR 21418, April 21, 2008) under the prior 24-hour SO_2 primary NAAQS and the still-current SO_2 secondary NAAQS. EPA is also not proposing any action to revoke the prior (1971) SO_2 primary NAAQS in either the 2010 Billings SO_2 nonattainment area or the larger Billings/Laurel area addressed by the May 2, 2002 SIP Call.

VI. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the Billings SO_2 Redesignation and Maintenance Plan for action which are identified within this notice of proposed rulemaking. 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 rule's preamble for more information).

VII. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, these proposed actions merely propose to approve state law as meeting Federal requirements and do not impose additional requirements beyond those imposed by state law. For this reason, these proposed actions:

- Are not significant regulatory actions 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);
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are 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.*);
- Do 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);
- Do not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are 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
- Do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP 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 proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, 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: February 23, 2016.

Richard D. Buhl,

Acting Regional Administrator, Region 8.

[FR Doc. 2016–04900 Filed 3–4–16; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 222

[Docket No. FRA–2016–0010, Notice No. 1]

Use of Locomotive Horns at Public Highway-Rail Grade Crossings; Notice of Safety Inquiry

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of safety inquiry.

SUMMARY: FRA is conducting a retrospective review of its locomotive train horn regulations in 49 CFR part 222. As part of its review, FRA is soliciting public comment on whether FRA should modify, streamline, or expand any requirements of FRA's locomotive train horn regulations to reduce paperwork and other economic burdens on the rail industry and States

and local authorities while still maintaining the highest standards of safety. The list of topics at the end of this Notice highlights specific areas on which FRA would particularly encourage the rail industry, as well as State and local authorities to provide comment.

DATES: Written comments must be received by July 5, 2016. Comments received after that date will be considered to the extent possible without incurring additional expense or delay.

FOR FURTHER INFORMATION CONTACT: Ron Ries, Staff Director, Highway-Rail Crossing and Trespasser Programs Division, U.S. Department of Transportation, Federal Railroad Administration, Office of Railroad Safety, Mail Stop 25, West Building 3rd Floor, 1200 New Jersey Avenue SE., Washington, DC 20590 (telephone: 202–493–6299; Kathryn Gresham, Trial Attorney, U.S. Department of Transportation, Federal Railroad Administration, Office of Chief Counsel, Mail Stop 10, West Building 3rd Floor, 1200 New Jersey Avenue SE., Washington, DC 20590 (telephone: 202–493–6052); or Brian Roberts, Trial Attorney, U.S. Department of Transportation, Federal Railroad Administration, Office of Chief Counsel, Mail Stop 10, West Building 3rd Floor, 1200 New Jersey Avenue SE., Washington, DC 20590 (telephone: 202–493–6052).

SUPPLEMENTARY INFORMATION:

Purpose of Retrospective Review

Under its general statutory rulemaking authority, FRA promulgates and enforces rules as part of a comprehensive regulatory program to address all areas of railroad safety. *See* 49 U.S.C. 20103 and 49 CFR 1.89. To provide for safety at public highway-rail grade crossings (public grade crossings), FRA has issued specific regulations in 49 CFR part 222 that generally require locomotive horn use at such crossings except within authorized quiet zones established under the regulations. Congress mandated these regulations in Public Law 103–440, codified as Section 20153 to title 49 of the United States Code. This statute required the Secretary of Transportation (whose authority in this area had been delegated to the Federal Railroad Administrator) to issue regulations on the use of locomotive horns at public grade crossings, but gave the Secretary the authority to make reasonable exceptions.

Consistent with Executive Order 13563 (''Improving Regulation and Regulatory Review'') and Executive Order 13610 (''Identifying and Reducing Regulatory Burdens''), FRA continually reviews its regulations and revises them as needed to: (1) Ensure the regulatory burden is not excessive; (2) clarify the application of existing requirements and remove requirements that are no longer necessary; and (3) keep pace with emerging technology, changing operational realities, and safety concerns. Therefore, through this Notice of Safety Inquiry, FRA seeks to gather input from the rail industry and State and local authorities on any regulatory burdens associated with 49 CFR part 222, while still maintaining the highest level of safety at our Nation's public grade crossings.

Executive Order 13563 requires agencies to periodically conduct retrospective analyses of their existing rules to identify requirements that may be outmoded, ineffective, insufficient, or excessively burdensome and to modify, streamline, expand, or repeal any problematic regulatory provisions identified during the review. Additionally, Executive Order 13610 requires agencies to take continuing steps to reassess regulatory requirements, and where appropriate, to streamline, improve, or eliminate those requirements. In particular, Executive Order 13610 emphasizes that agencies should prioritize ''initiatives that will produce significant quantifiable monetary savings or significant quantifiable reductions in paperwork burdens.'' Therefore, FRA is specifically interested in receiving comments on how the agency can reduce the regulatory burden on the regulated community and the public in a way that would provide monetary savings or reduce paperwork burdens without negatively impacting safety at public grade crossings.

Rulemaking Background on 49 CFR Part 222 (''Use of Locomotive Horns at Public Highway-Rail Grade Crossings'')

FRA began the rulemaking process for 49 CFR part 222 on January 13, 2000, when it published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** addressing the use of locomotive horns at public grade crossings. The rulemaking was mandated by 49 U.S.C. 20153, which required the Secretary of Transportation to issue regulations that required the use of locomotive horns at public grade crossings, but gave the Secretary the authority to make reasonable exceptions. FRA received approximately 3,000 comments in response to the NPRM.

Due to the substantial and wide-ranging public interest in the NPRM, FRA conducted a series of twelve public hearings throughout the United States. More than 350 people testified at these hearings.

On December 18, 2003, FRA published an Interim Final Rule in the **Federal Register** (68 FR 70586). FRA could have proceeded directly to the final rule stage of the rulemaking. However, FRA chose to issue an interim final rule instead in order to give the public an opportunity to comment on changes that had been made to the rule since the NPRM. In addition, FRA held another public hearing in Washington, DC on February 4, 2004. By the close of the extended comment period, over 1,400 comments had been filed with the agency regarding the Interim Final Rule.

FRA then published a final rule in the **Federal Register** on April 27, 2005 (70 FR 21844). After the final rule was published, FRA received several petitions for reconsideration and associated letters in support of the petitions. In addition, the Association of American Railroads (AAR) submitted a petition for an Emergency Order. On August 17, 2006, FRA published amendments in the **Federal Register** which amended and clarified the final rule in response to the petitions for reconsideration (71 FR 47614). FRA denied AAR's petition for an Emergency Order.

Since 2006, FRA has not issued any substantive revisions to 49 CFR part 222. Therefore, FRA is soliciting public comments on any needed revisions to the regulations as part of its retrospective review.

Overview of 49 CFR Part 222

FRA regulations require that engineers sound their locomotive horns while approaching public grade crossings until the lead locomotive fully occupies the crossing. *See* 49 CFR 222.21(a). In general, the regulations require locomotive engineers to begin to sound the train horn for a minimum of 15 seconds, and a maximum of 20 seconds, in advance of public grade crossings. *See* 49 CFR 222.21(b)(2). Engineers must also sound the train horn in a standardized pattern of two long, one short and one long blast and the horn must continue to sound until the lead locomotive or train car occupies the grade crossing. *See* 49 CFR 222.21(a). Additionally, the minimum sound level for the locomotive horn is 96 dB(A), while the maximum sound level is 110 dB(A). *See* 49 CFR 229.129(a).

Research and years of experience show that the use of train horns,

flashing lights, and gates—in concert—at grade crossings are extremely effective in preventing accidents and their resulting injuries and deaths. The use of the locomotive horn while trains are approaching public highway-rail grade crossings provides an important safety warning to pedestrians and motorists who are on or approaching the crossings. FRA conducted a nationwide study that showed there is a 66.8-percent increase in crossing collisions at crossings equipped with automatic warning devices consisting of flashing lights and gates when train horns are not routinely sounded.

Establishing a Quiet Zone

FRA regulations authorize only public authorities to establish quiet zones. *See* 49 CFR 222.37(a). At a minimum, new quiet zones must be at least one-half mile in length and contain at least one public grade crossing (*i.e.,* a location where a public highway, road, or street crosses one or more railroad tracks at grade). *See* definition of ''quiet zone'' in 49 CFR 222.9 and 222.35(a). Every public grade crossing in a quiet zone must be equipped at a minimum with active grade crossing warning devices consisting of flashing lights and gates. *See* 49 CFR 222.35(b).

If a public authority wants to establish a new quiet zone that will include a pedestrian crossing, a private highway-rail grade crossing that allows access to the public, or a private highway-rail grade crossing that provides access to an active industrial or commercial site, a diagnostic team (made up of representatives from the railroad, relevant State agencies, the public authority, and FRA, if possible) must evaluate the pedestrian or private highway-rail grade crossing and the crossing must be equipped or treated in accordance with the diagnostic team recommendations. *See* 49 CFR 222.25(b)(1) and 222.27(b). In addition, FRA has interpreted 49 CFR part 222 to require that any private highway-rail grade crossing or pedestrian crossing in a quiet zone must be located either between the public grade crossings that serve as quiet zone endpoints or within one-quarter mile of the quiet zone endpoints.

Public authorities can establish quiet zones through either the public authority designation process or the public authority application process to FRA. *See* 49 CFR 222.39(a) and (b), respectively. Because the absence of routine horn sounding at public grade crossings increases the risk of a crossing collision, in most circumstances the regulations require public authorities seeking to establish quiet zones to mitigate additional risk. Public authorities that wish to reduce existing risk levels within the proposed quiet zone can implement certain specified pre-approved crossing improvements (*i.e.,* Supplementary Safety Measures (SSMs)) to reduce the proposed quiet zone's risk level to an acceptable level. These improvements include: Roadway medians or channelization devices to discourage motorists from driving around a lowered crossing gate; a four-quadrant gate system to block all lanes of highway traffic; converting a two-way street into a one-way street and installing crossing gates, and permanent or temporary (nighttime) closure of the crossing to highway traffic. *See* Appendix A to 49 CFR part 222. Public authorities that rely exclusively on SSMs to reduce existing risk levels within the proposed quiet zone to an acceptable level can establish quiet zones through the public authority designation process (*i.e.,* without specific FRA approval). *See* 49 CFR 222.39(a). However, public authorities that want to implement Alternative Safety Measures (ASMs), *i.e.,* modified SSMs or certain specified non-engineering crossing improvements, within a proposed quiet zone must apply for FRA approval of the effectiveness rate (*i.e.,* the amount of risk that is mitigated by deployment of a safety measure at a crossing) that will be assigned to the crossing improvement(s).

As an alternative, communities may also choose to silence routine locomotive horn sounding through the installation of wayside horns at public grade crossings. Wayside horns are train-activated stationary acoustic devices at grade crossings that are directed at highway traffic as a one-for-one substitute for train horns.

During the new quiet zone establishment process, the regulations require public authorities to provide a Notice of Intent to the railroads that operate within the quiet zone, and to the State agencies responsible for highway and grade crossing safety, to solicit comments on the proposed quiet zone. *See* 49 CFR 222.43(a). However, a quiet zone may not take effect until all the necessary safety measures have been installed and are operational. *See* 49 CFR 222.43(d)(2). The regulations also require the public authority to provide a Notice of Quiet Zone Establishment to all affected parties before the quiet zone is established, including all railroads that operate over crossings within the proposed quiet zone, State agencies responsible for highway and grade crossing safety, and FRA. *See* 49 CFR 222.43(a)(3). The Notice of Quiet Zone Establishment must provide the date when the quiet zone will take effect, which cannot be less than 21 days after the date on which the Notice of Quiet Zone Establishment is mailed. *See* 49 CFR 222.43(d).

Request for Comments

While FRA solicits discussion and comments on all of 49 CFR part 222, we particularly encourage comments on the following questions:

- How can FRA decrease the barriers local communities encounter when establishing a quiet zone?
- Should 49 CFR part 222 allow greater variances in highway-rail configurations when determining safety calculations for local communities establishing quiet zones? If so, what variances would be appropriate?
- Should FRA amend Appendix A to 49 CFR part 222 to include common alternative grade crossing safety measures and emerging grade crossing safety technologies? If so, what measures and technologies would be appropriate?
- What further actions can FRA take to mitigate train horn noise impacts for local communities while not decreasing safety for motorists and pedestrians?
- How can FRA change how train horns are sounded at grade crossings while not decreasing safety for motorists and pedestrians?
- Should railroads be required to file an official opinion of support or opposition to the establishment of a new quiet zone?
- Should train speed be a factor that is considered when establishing a new quiet zone?
- Should there be an online process for submitting quiet zone notices, applications, and required paperwork, in whole or in part?
- Should FRA be a required recipient of the Notice of Intent to establish a quiet zone?
- Should FRA provide additional guidance on how to measure the length of a quiet zone? If so, what guidance would be helpful?
- Should FRA develop a process to address modifications to grade crossings within an existing quiet zone? If so, please describe what process would be helpful?

• Should FRA require diagnostic reviews for all grade crossings within proposed quiet zones instead of requiring them only for pedestrian (pathway) grade crossings and private grade crossings that allow access to the public or which provide access to active industrial or commercial sites?

• How should FRA address safety measures that no longer meet the requirements for SSMs or ASMs?

Issued in Washington, DC, on February 29, 2016.

Sarah E. Feinberg,

Administrator.

[FR Doc. 2016–04831 Filed 3–4–16; 8:45 am]

BILLING CODE 4910–06–P

Notices

Federal Register

Vol. 81, No. 44

Monday, March 7, 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

Animal and Plant Health Inspection Service

[Docket No. APHIS–2014–0054]

Environmental Impact Statement; Introduction of the Products of Biotechnology

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement; extension of comment period.

SUMMARY: We are extending the comment period for our notice of intent to prepare a programmatic environmental impact statement in connection with potential changes to the regulations regarding the importation, interstate movement, and environmental release of certain genetically engineered organisms. This action will allow interested persons additional time to prepare and submit comments.

DATES: The comment period for the notice published on February 5, 2016 (81 FR 6225–6229) is extended. We will consider all comments that we receive on or before April 21, 2016.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docket Detail;D=APHIS-2014-0054.*
- *Postal Mail/Commercial Delivery:* Send your comments to Docket No. APHIS–2014–0054, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0054* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Mr. Sidney W. Abel, Assistant Deputy Administrator, Biotechnology Regulatory Services, APHIS, 4700 River Road, Unit 147, Riverdale, MD 20737–1236; (301) 851–3896.

SUPPLEMENTARY INFORMATION: On February 5, 2016, we published in the **Federal Register** (81 FR 6225–6229, Docket No. APHIS–2014–0054) a notice stating our decision to complete a programmatic environmental impact statement (EIS) in connection with proposed revisions and amendments to our biotechnology regulations under consideration. These proposed revisions primarily consist of amendments to the regulations pertaining to introductions of certain genetically engineered organisms to address advances in biotechnology and issues raised by stakeholders.

The notice described the range of proposed reasonable alternatives that are currently under consideration for evaluation in the EIS and the issues that will be evaluated in the EIS, and requested public comment to further define the issues and scope of the EIS' alternatives. We also requested public comment to help us identify other environmental issues that should be examined in the EIS.

Comments on the notice were required to be received on or before March 7, 2016. We are extending the comment period on Docket No. APHIS–2014–0054 for an additional 45 days. This action will allow interested persons additional time to prepare and submit comments.

Done in Washington, DC, this 2nd day of March 2016.

Michael C. Gregoire,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2016–04992 Filed 3–4–16; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

Submission for OMB Review; Comment Request

March 1, 2016.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by April 6, 2016 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725—17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: Importation of Baby Corn and Baby Carrots from Zambia.

OMB Control Number: 0579–0284.

Summary of Collection: Under the Plant Protection Act (PPA) (7 U.S.C. 7701—*et seq.*) the Secretary of Agriculture is authorized to carry out operations or measures to detect, eradicate, suppress, control, prevent, or retard the spread of plant pests new to the United States or not known to be widely distributed throughout the United States. Regulations authorized by the PPA concerning the importation of fruits and vegetables into the United States from certain parts of the world are contained in ''Subpart Fruits and Vegetables'' (7 CFR 319.56–8 through 319.56–50). The Animal and Plant Health Inspection Service (APHIS) regulations allow the importation into the continental United States of fresh, dehusked immature (baby) sweet corn and fresh baby carrots from Zambia. As a condition of entry, both commodities are subject to inspection at the port of first arrival and must be accompanied by a phytosanitary certificate with an additional declaration stating that the commodity has been inspected and found free of the quarantine pest listed in the certificate.

Need and Use of the Information: APHIS requires that some plants or plant products are accompanied by a photosanitary inspection certificate that is completed by plant health officials in the originating or transiting country. APHIS uses the information on the certificate to determine the pest condition of the shipment at the time of inspection in the foreign country. This information is used as a guide to the intensity of the inspection APHIS conducts when the shipment arrives.

Description of Respondents: Federal Government; Businesses or other for-profit.

Number of Respondents: 3.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 14.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2016–04892 Filed 3–4–16; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Dixie Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Dixie Resource Advisory Committee (RAC) will meet in Cedar City, Utah. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. RAC information can be found at the following Web site: *http://cloudapps-usda-gov.force.com/FSSRS/RAC_page?id=001t0000002Jcv8AAC.*

DATES: The meeting will be held Wednesday, April 6th, 2016 from 9 a.m. to 6 p.m. Mountain Standard Time.

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

ADDRESSES: The meeting will be held at 1789 North Wedgewood Lane, Cedar City City, UT 84721, in the Dixie National Forest Supervisors Office, in the SO Conference Room. The meeting will also a have a VTC feed to the Powell Ranger District office, Main Conference room, in Panguitch, UT 84759, with the address of, 225 East Center Street. A conference call line will also be available. The phone number will be 888–844–9904 with an access code of 6404629.

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 1789 North Wedgewood Lane, Cedar City, UT 84721. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Jason Hamilton, Resource Advisory Committee Coordinator, by phone at 435–865–3794 or via email at *jdhamilton@fs.fed.us.*

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

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Listen to Dixie Resource Advisory Committee, Title II project proposals, and for the Resource Advisory Committee to vote and recommend projects to be approved by the Designated Federal Officer on the Dixie National Forest.

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 Friday, March 25th, 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 Jason Hamilton, 1789 North Wedgewood Lane, Cedar City, UT 84721; by email to *jdhamilton@fs.fed.us,* or via facsimile to 435–865–3791.

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, please contact 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 26, 2016.

Angelita S. Bulletts,

Forest Supervisor.

[FR Doc. 2016–04969 Filed 3–4–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Survey of State Government Research and Development.

OMB Control Number: 0607–0933.

Form Number(s): Survey Frame Review Module; SRD–1 (State Agency Web Form).

Type of Request: Revision of a currently approved collection.

Number of Respondents: 604.

Average Hours per Response: 1 hour and 45 minutes.

Burden Hours: 1,056.

Needs and Uses: The Census Bureau is requesting clearance to conduct the Survey of State Government Research and Development (SGRD) for the 2016–

2018 survey years with the revisions outlined in this document. The Census Bureau conducts this survey on behalf of the National Science Foundation's (NSF) National Center for Science and Engineering Statistics (NCSES). The NSF Act of 1950 includes a statutory charge to ''provide a central clearinghouse for the collection, interpretation, and analysis of data on scientific and engineering resources and to provide a source of information for policy formulation by other agencies in the Federal Government.'' Under the aegis of this legislative mandate, NCSES and its predecessors have sponsored surveys of research and development (R&D) since 1953, including the SGRD since 2006. This survey has helped to expand the scope of R&D collections to include state governments, where previously there had been no regularly established collection efforts, and thus a gap in the national portfolio of R&D statistics.

NCSES sponsors surveys of R&D activities of Federal agencies, higher education institutions, and private industries. The results of these surveys provide a consistent information base for both federal and state government officials, industry professionals, and researchers to use in formulating public policy and planning in science and technology. These surveys allow for the analysis of current and historical trends of R&D in the U.S. and in international comparisons of R&D with other countries. The data collected from the SGRD fills a void that previously existed for collection of R&D activities. Although NCSES conducted periodic data collections of state government R&D in 1995, 1988 and 1987, more frequent collection was necessary to account for the changing dynamic of state governments' role in performing and funding R&D and their role as fiduciary intermediaries of federal funds for R&D. The survey is a census of state government departments, agencies, commissions, public authorities, and other dependent entities as defined by the Census Bureau's Census of Governments program, that performed or funded R&D activities in a given fiscal year.

The Census Bureau, serving as collection agent, employs a methodology similar to the one used to collect information from state and local governments on other established censuses and surveys. This methodology involves identifying a central coordinator in each state who will assist Census Bureau staff in identifying appropriate state agencies to be surveyed. Since not all state agencies have the budget authority or operational capacity to perform or fund R&D, NCSES and Census Bureau staffs have identified those agencies most likely to perform or fund R&D based on state session laws, authorizing legislation, budget authority, previous R&D activities, and reports issued by state government agencies. The state coordinators, based on their knowledge of the state government's own activities and priorities, are asked to confirm which of the selected agencies identified should be sent the survey for a given fiscal year or to add additional agencies to the survey frame. These state coordinators also verify the final responses at the end of the data collection cycle and may assist with nonresponse follow-up with individual state agencies. The collection approach using a central state coordinator is used successfully at the Census Bureau in surveys of local school districts, as well as the annual surveys of state and local government finance.

As part of the President's FY 2014 Budget Request to Congress, the Office of Management and Budget (OMB) recommended NCSES receive an additional ''$500,000 to increase the frequency of the Survey of State Government Research and Development.'' Starting with the FY 2016 survey cycle, NCSES will collect data on an annual basis instead of a biennial format that was used for state government fiscal years 2010 and 2011, 2012 and 2013, and 2014 and 2015. This change from biennial to annual collection will increase the frequency and timeliness of survey results; thus increasing the utility of the statistics for data users, including the Bureau of Economic Analysis and the state governments themselves, while also allowing for the annual inclusion of these data in NCSES's own National Patterns of R&D report. Currently, NCSES must develop estimates for the non-Federal government component of the National Patterns data during the survey's off-year. Increasing the frequency by changing to an annual data collection cycle will allow for more accurate National Patterns of R&D. Results from the National Patterns are used by OMB during the budget formulation process, as well as by the Office of Science and Technology Policy (OSTP), and others interested in science and technology investments, and international competitiveness of R&D.

The 2016 survey will follow the same content that was collected during the FY 2014 and FY 2015 Survey of State Government R&D.

The survey announcements and forms used in the SGRD are:

Survey Announcement. The Governor's letter is mailed to the Governor's Office to announce the survey collection and to solicit assignment of a State Coordinator. The State Coordinator's Announcement is sent electronically at the beginning of each survey period to solicit assistance in identifying state agencies which may perform or fund R&D activities. Later, state coordinators are asked to review final data submitted by state agencies.

Form SRD–1. This form contains item descriptions and definitions of the research and development items collected by the Census Bureau on behalf of the NSF. It is used primarily as a worksheet and instruction guide by the state agencies. All state agencies supply their data by electronic means.

Final survey results produced by NCSES contain state and national estimates and are useful to a variety of data users interested in R&D performance, including: The National Science Board; the OMB; the Office of Science and Technology Policy (OSTP) and other science policy makers; institutional researchers; and private organizations; and many state governments.

Legislators, policy officials, and researchers rely on statistics to make informed decisions about R&D investment at the Federal, state, and local level. These statistics are derived from the existing NCSES sponsored surveys of Federal agencies, higher education institutions, and private industry. The total picture of R&D expenditures, however, had been incomplete due to the lack of data from state governments prior to this implementation of the SGRD in 2006, which now fills that void.

State government officials and policy makers garner the most benefit from the results of this survey. Governors and legislatures need a reliable, comprehensive source of data to help in evaluating how best to attract the high-tech R&D industries to their state. Officials are able to evaluate their investment in R&D based on comparisons with other states. These comparisons include the sources of funding, the type of R&D being conducted, and the type of R&D performer.

State governments serve a unique role within the national portfolio of R&D. Not only are they both performers and funders of R&D like other sectors such as the Federal Government, higher education, or industry, but they also serve as fiduciary intermediaries between the Federal Government and other R&D performers while also providing state specific funds for R&D.

The information collected from the SGRD provides data users with perspective on this complex flow of funds. Survey results are used at the Federal level to assess and direct investment in technology and economic issues. Congressional committees and the Congressional Research Service use results of the R&D surveys. The BEA uses these data to estimate the contribution of state agency-funded R&D to the overall impact of treating R&D as an investment in BEA's statistics of gross domestic product by state-area.

NSF also uses data from this survey in various publications produced about the state of R&D in the U.S. The Science and Engineering Indicators, for example, is a biennial report mandated by Congress and describes quantitatively the condition of the country's R&D efforts, and includes data from the SGRD. Survey results are also included in the National Patterns of Research and Development report's tabulations.

The availability of state R&D survey results are posted to NSF's Web page allowing for public access from a variety of other data users as well. Media, university researchers, nonprofit organizations, and foreign government officials are also consumers of state R&D statistics. All users are able to utilize this information in an attempt to better understand the Nation's R&D resources.

Affected Public: State, local, or tribal government.

Frequency: Annually.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, United States Code, Sections 8(b) and Title 42, United States Code, Sections 1861–76 (National Science Foundation Act of 1950, as amended).

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: March 2, 2016.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2016–04993 Filed 3–4–16; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–79–2015]

Authorization of Production Activity; Foreign-Trade Subzone 38A; BMW Manufacturing Co., LLC; (Motor Vehicle Body Parts and Lithium-Ion Batteries); Spartanburg, South Carolina

On October 27, 2015, BMW Manufacturing Company, LLC, operator of Subzone 38A, submitted a notification of proposed production activity to the Foreign-Trade Zones (FTZ) Board for its facility in Spartanburg, South Carolina.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (80 FR 72948, November 23, 2015). The FTZ Board has determined that no further review of the activity is warranted at this time. The production activity described in the notification is authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14, and further subject to a restriction requiring that foreign status textile-based polyester fleece vent pads (classified within HTSUS Subheading 5911.90) be admitted to the zone in privileged foreign status (19 CFR 146.41).

Dated: March 1, 2016.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2016–05012 Filed 3–4–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–865]

Certain Cold-Rolled Steel Flat Products From India: Affirmative Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination and Extension of Provisional Measures

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

SUMMARY: The Department of Commerce (the ''Department'') preliminarily determines that certain cold-rolled steel flat products (''cold-rolled steel'') from India are being, or are likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 733(b) of the Tariff Act of 1930, as amended (''the Act''). The period of investigation (''POI'') is July 1, 2014, through June 30, 2015. The collapsed entity JSW Steel Limited (''JSWSL'')/JSW Coated Products Limited (''JSCPL'') (collectively ''JSW'') is the sole mandatory respondent in this investigation. The estimated weighted-average dumping margins of sales at LTFV are shown in the ''Preliminary Determination'' section of this notice. Interested parties are invited to comment on this preliminary determination.

DATES: Effective March 7, 2016.

FOR FURTHER INFORMATION CONTACT: Patrick O'Connor or Jeffrey Pedersen, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0989 or (202) 482–2769, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the notice of initiation of this investigation on August 24, 2015.[1] For a complete description of the events that followed the initiation of this investigation, see the Preliminary Decision Memorandum that is dated concurrently with this determination and is hereby adopted by this notice.[2] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''ACCESS''). ACCESS is available to registered users at *https://access.trade.gov,* and 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 found at *http://enforcement.trade.gov/frn/.* The signed Preliminary Decision Memorandum and the electronic

[1] *See Certain Cold-Rolled Steel Flat Products From Brazil, the People's Republic of China, India, Japan, the Republic of Korea, the Netherlands, the Russian Federation, and the United Kingdom: Initiation of Less-Than-Fair-Value Investigations,* 80 FR 51198 (August 24, 2015) (''*Initiation Notice*'').

[2] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance ''Decision Memorandum for the Preliminary Determination in the Less-Than-Fair Value Investigation of Certain Cold-Rolled Steel Flat Products from India'' (''Preliminary Decision Memorandum''), dated concurrently with this notice.

version of the Preliminary Decision Memorandum are identical in content.

The Department has exercised its discretion to toll all administrative deadlines due to the recent closure of the Federal Government because of Snowstorm ''Jonas''. Thus, all of the deadlines in this segment of the proceeding have been extended by four business days. The revised deadline for the preliminary determination is now February 29, 2016.[3]

Scope of the Investigation

The products covered by this investigation are certain cold-rolled (cold-reduced), flat-rolled steel products, whether or not annealed, painted, varnished, or coated with plastics or other non-metallic substances. For a full description of the scope of this investigation, see the ''Scope of the Investigation,'' in Appendix I.

Scope Comments

In accordance with the preamble to the Department's regulations,[4] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* ''scope'').[5] Certain interested parties commented on the scope of the investigation, as it appeared in the *Initiation Notice,* as well as on additional language proposed by the Department. For a summary of the product coverage comments and rebuttal responses submitted to the record, and an accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[6] The Department is preliminarily not modifying the scope language as it appeared in the *Initiation Notice.*

Methodology

The Department is conducting this investigation in accordance with section 731 of the Act. Export prices have been calculated in accordance with section 772(a) of the Act. Normal value (''NV'') has been calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our preliminary determination, see the Preliminary Decision Memorandum.

Single Entity Treatment

For the reasons set forth in the Preliminary Affiliation and Collapsing Memorandum, which we incorporate by reference herein, and in accordance with 19 CFR 351.401(f) and the Department's practice, we are treating JSWSL and JSCPL as a single entity, JSW, for the purposes of this preliminary determination.[7]

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* dumping margins, and any dumping margins determined entirely under section 776 of the Act. JSW is the only mandatory respondent in this investigation. The Department calculated a company-specific rate for JSW which is not zero, *de minimis* or based entirely on facts available. Therefore, for purposes of determining the ''all-others'' rate and pursuant to section 735(c)(5)(A) of the Act, we are using the weighted-average dumping margin calculated for JSW as the estimated weighted-average dumping margin assigned to all other producers and exporters of the merchandise under consideration.

Preliminary Determination

The Department preliminarily determines that the following weighted-average dumping margins exist:

Exporter/ producer	Weighted-average margin (percent)
JSW Steel Limited/JSW Coated Products Limited ..	6.78
All-Others	6.78

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we will direct U.S. Customs and Border Protection (''CBP'') to suspend liquidation of all entries of cold-rolled steel from India, as described in the scope of the investigation, that is entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

Pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), the Department will instruct CBP to require a cash deposit equal to the weighted-average amount by which the NV exceeds export price, as indicated in the table above,[8] adjusted where appropriate for export subsidies.[9] The cash deposit rate for JSW, when adjusted for export subsidies, is 4.86 percent. The cash deposit rate for all other producers or exporters in India, when adjusted for export subsidies, is 4.86 percent. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure and Public Comment

We intend to disclose the calculations that we performed in this investigation to interested parties in this proceeding within five days after the date of public announcement of the preliminary determination in accordance with 19 CFR 351.224(b). Interested parties are invited to comment on this preliminary determination. Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this proceeding, and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline for case briefs.[10] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. All

[3] *See* Memorandum to the Record from Ron Lorentzen, Acting Assistant Secretary for Enforcement & Compliance, regarding ''Tolling of Administrative Deadlines as a Result of the Government Closure during Snowstorm Jonas,'' dated January 27, 2016.

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

[5] *See Initiation Notice,* 80 FR at 51199.

[6] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, ''Certain Cold-Rolled Steel Products From Brazil, the People's Republic of China, India, Japan, the Republic of Korea, the Russian Federation, and the United Kingdom: Scope Comments Decision Memorandum for the Preliminary Determinations'' dated concurrently with this preliminary determination.

[7] For further discussion of this issue, *see* Memorandum to Abdelali Elouaradia, Director, Office IV, from Patrick O'Connor, International Trade Analyst, Office IV, through Howard Smith, Program Manager, Office IV ''Antidumping Duty Investigation of Certain Cold-Rolled Steel Flat Products from India: JSW Preliminary Affiliation and Collapsing Memorandum'' (''JSW Preliminary Affiliation and Collapsing Memorandum''), dated concurrently with this preliminary determination.

[8] *See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations,* 76 FR 61042 (October 3, 2011).

[9] *See* section 772(c)(1)(C) of the Act. Unlike in administrative reviews, the Department calculates the adjustment for export subsidies in investigations not in the margin calculation program, but in the cash deposit instructions issued to CBP. *See Notice of Final Determination of Sales at Less Than Fair Value, and Negative Determination of Critical Circumstances: Certain Lined Paper Products from India,* 71 FR 45012 (August 8, 2006), and accompanying Issues and Decision Memorandum at Comment 1.

[10] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

documents must be filed electronically using ACCESS.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request for a hearing to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce. An electronically-filed request for a hearing must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice.[11] Hearing requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Verification

As provided in section 782(i) of the Act, we intend to verify the information that will be relied upon in making our final determination.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by Petitioners. 19 CFR 351.210(e)(2) requires that requests by respondents for postponement of a final antidumping determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On January 26, 2016, pursuant to 19 CFR 351.210(b) and (e), JSW requested that, contingent upon an affirmative preliminary determination of sales at LTFV, the Department postpone the final determination and that provisional measures be extended to a period not to exceed six months.[12]

In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) Our preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, we are postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, we will make our final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.[13]

International Trade Commission (''ITC'') Notification

In accordance with section 733(f) of the Act, we are notifying the ITC of our affirmative preliminary determination of sales at LTFV. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: February 29, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The products covered by this investigation are certain cold-rolled (cold-reduced), flat-rolled steel products, whether or not annealed, painted, varnished, or coated with plastics or other non-metallic substances. The products covered do not include those that are clad, plated, or coated with metal. The products covered include coils that have a width or other lateral measurement (''width'') of 12.7 mm or greater, regardless of form of coil (*e.g.,* in successively superimposed layers, spirally oscillating, etc.). The products covered also include products not in coils (*e.g.,* in straight lengths) of a thickness less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products covered also include products not in coils (*e.g.,* in straight lengths) of a thickness of 4.75 mm or more and a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, *i.e.,* products which have been ''worked after rolling'' (*e.g.,* products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

(1) Where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above, and

(2) where the width and thickness vary for a specific product (*e.g.,* the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, etc.), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this investigation are products in which: (1) Iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.00 percent of nickel, or
- 0.30 percent of tungsten (also called wolfram), or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium

Unless specifically excluded, products are included in this scope regardless of levels of boron and titanium.

For example, specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, motor lamination steels, Advanced High Strength Steels (AHSS), and Ultra High Strength Steels (UHSS). IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Motor lamination steels contain micro-alloying levels of elements such as silicon and aluminum. AHSS and UHSS are considered high tensile strength and high elongation steels, although AHSS and UHSS are covered whether or not they are high tensile strength or high elongation steels.

Subject merchandise includes cold-rolled steel that has been further processed in a third country, including but not limited to annealing, tempering, painting, varnishing, trimming, cutting, punching, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the cold-rolled steel.

All products that meet the written physical description, and in which the chemistry

[11] *See* 19 CFR 351.310(c).

[12] *See* Letter to the Secretary of Commerce from JSW ''Cold-Rolled Steel Flat Products from India: Request for Postponement of Final Determination,'' dated January 26, 2016.

[13] *See also* 19 CFR 351.210(e).

quantities do not exceed any one of the noted element levels listed above, are within the scope of this investigation unless specifically excluded. The following products are outside of and/or specifically excluded from the scope of this investigation:

- Ball bearing steels; [14]
- Tool steels; [15]
- Silico-manganese steel; [16]
- Grain-oriented electrical steels (GOES) as defined in the final determination of the U.S. Department of Commerce in Grain-Oriented Electrical Steel From Germany, Japan, and Poland.[17]
- Non-Oriented Electrical Steels (NOES), as defined in the antidumping orders issued by the U.S. Department of Commerce in Non-Oriented Electrical Steel From the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan.[18]

The products subject to this investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7209.15.0000, 7209.16.0030, 7209.16.0060, 7209.16.0070, 7209.16.0091, 7209.17.0030, 7209.17.0060, 7209.17.0070, 7209.17.0091, 7209.18.1530, 7209.18.1560, 7209.18.2510, 7209.18.2520, 7209.18.2580, 7209.18.6020, 7209.18.6090, 7209.25.0000, 7209.26.0000, 7209.27.0000, 7209.28.0000, 7209.90.0000, 7210.70.3000, 7211.23.1500, 7211.23.2000, 7211.23.3000, 7211.23.4500, 7211.23.6030, 7211.23.6060, 7211.23.6090, 7211.29.2030, 7211.29.2090, 7211.29.4500, 7211.29.6030, 7211.29.6080, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7225.50.6000, 7225.50.8080, 7225.99.0090, 7226.92.5000, 7226.92.7050, and 7226.92.8050. The products subject to the investigation may also enter under the following HTSUS numbers: 7210.90.9000, 7212.50.0000, 7215.10.0010, 7215.10.0080, 7215.50.0016, 7215.50.0018, 7215.50.0020, 7215.50.0061, 7215.50.0063, 7215.50.0065, 7215.50.0090, 7215.90.5000, 7217.10.1000, 7217.10.2000, 7217.10.3000, 7217.10.7000, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090, 7225.19.0000, 7226.19.1000, 7226.19.9000, 7226.99.0180, 7228.50.5015, 7228.50.5040, 7228.50.5070, 7228.60.8000, and 7229.90.1000.

The HTSUS subheadings above are provided for convenience and U.S. Customs purposes only. The written description of the scope of the investigation is dispositive.

Appendix II—List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Period of Investigation
IV. Scope of the Investigation
V. All-Others Rate
VI. Affiliation and Collapsing
VII. Discussion of The Methodology
  Comparisons to Fair Value
  A. Determination of the Comparison Method
  B. Results of the Differential Pricing Analysis
VIII. Date of Sale
IX. Product Comparisons
X. Export Price and Constructed Export Price
XI. NV
  A. Comparison Market Viability
  B. Affiliated Party Transactions and Arm's-Length Test
  C. Level of Trade
  D. COP Analysis
  1. Calculation of COP
  2. Test of Comparison Market Sales Prices
  3. Results of the COP Test
  E. Calculation of NV Based on Comparison-Market Prices
XII. Currency Conversion
XIII. Adjustments To Cash Deposit Rates for Export Subsidies in Companion Countervailing Duty Investigation
XIV. Verification
XV. Conclusion

[FR Doc. 2016–05003 Filed 3–4–16; 8:45 am]

BILLING CODE 3510–DS–P

[14] Ball bearing steels are defined as steels which contain, in addition to iron, each of the following elements by weight in the amount specified: (i) Not less than 0.95 nor more than 1.13 percent of carbon; (ii) not less than 0.22 nor more than 0.48 percent of manganese; (iii) none, or not more than 0.03 percent of sulfur; (iv) none, or not more than 0.03 percent of phosphorus; (v) not less than 0.18 nor more than 0.37 percent of silicon; (vi) not less than 1.25 nor more than 1.65 percent of chromium; (vii) none, or not more than 0.28 percent of nickel; (viii) none, or not more than 0.38 percent of copper; and (ix) none, or not more than 0.09 percent of molybdenum.

[15] Tool steels are defined as steels which contain the following combinations of elements in the quantity by weight respectively indicated: (i) More than 1.2 percent carbon and more than 10.5 percent chromium; or (ii) not less than 0.3 percent carbon and 1.25 percent or more but less than 10.5 percent chromium; or (iii) not less than 0.85 percent carbon and 1 percent to 1.8 percent, inclusive, manganese; or (iv) 0.9 percent to 1.2 percent, inclusive, chromium and 0.9 percent to 1.4 percent, inclusive, molybdenum; or (v) not less than 0.5 percent carbon and not less than 3.5 percent molybdenum; or (vi) not less than 0.5 percent carbon and not less than 5.5 percent tungsten.

[16] Silico-manganese steel is defined as steels containing by weight: (i) Not more than 0.7 percent of carbon; (ii) 0.5 percent or more but not more than 1.9 percent of manganese, and (iii) 0.6 percent or more but not more than 2.3 percent of silicon.

[17] *Grain-Oriented Electrical Steel From Germany, Japan, and Poland: Final Determinations of Sales at Less Than Fair Value and Certain Final Affirmative Determination of Critical Circumstances,* 79 FR 42,501, 42,503 (July 22, 2014). This determination defines grain-oriented electrical steel as ''a flat-rolled alloy steel product containing by weight at least 0.6 percent but not more than 6 percent of silicon, not more than 0.08 percent of carbon, not more than 1.0 percent of aluminum, and no other element in an amount that would give the steel the characteristics of another alloy steel, in coils or in straight lengths.''

[18] *Non-Oriented Electrical Steel From the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan: Antidumping Duty Orders,* 79 FR 71,741, 71,741–42 (Dec. 3, 2014). The orders define NOES as ''cold-rolled, flat-rolled, alloy steel products, whether or not in coils, regardless of width, having an actual thickness of 0.20 mm or more, in which the core loss is substantially equal in any direction of magnetization in the plane of the material. The term 'substantially equal' means that the cross grain direction of core loss is no more than 1.5 times the straight grain direction (*i.e.,* the rolling direction) of core loss. NOES has a magnetic permeability that does not exceed 1.65 Tesla when tested at a field of 800 A/m (equivalent to 10 Oersteds) along (*i.e.,* parallel to) the rolling direction of the sheet (*i.e.,* B800 value). NOES contains by weight more than 1.00 percent of silicon but less than 3.5 percent of silicon, not more than 0.08 percent of carbon, and not more than 1.5 percent of aluminum. NOES has a surface oxide coating, to which an insulation coating may be applied.''

DEPARTMENT OF COMMERCE

International Trade Administration

[A–412–824]

Certain Cold-Rolled Steel Flat Products From the United Kingdom: Affirmative Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination and Extension of Provisional Measures

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

SUMMARY: The Department of Commerce (the Department) preliminarily determines that certain cold-rolled steel flat products (cold-rolled steel) from the United Kingdom are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). The period of investigation (POI) is July 1, 2014, through June 30, 2015. The estimated weighted-average dumping margins of sales at LTFV are shown in the ''Preliminary Determination'' section of this notice. Interested parties are invited to comment on this preliminary determination.

DATES: *Effective Date:* March 7, 2016.

FOR FURTHER INFORMATION CONTACT: Thomas Schauer, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0410.

SUPPLEMENTARY INFORMATION:

Background

The Department published the notice of initiation of this investigation on August 24, 2015.[1] For a complete description of the events that followed the initiation of this investigation, *see* the memorandum that is dated concurrently with this determination and hereby adopted by this notice.[2] A

[1] *See Certain Cold-Rolled Steel Flat Products From Brazil, the People's Republic of China, India, Japan, the Republic of Korea, the Netherlands, the Russian Federation, and the United Kingdom: Initiation of Less-Than-Fair-Value Investigations,* 80 FR 51198 (August 24, 2015) (*Initiation Notice*).

[2] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and

list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and 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 found at *http://enforcement.trade.gov/frn/.* The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

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 determination of this investigation is now February 29, 2016.[3]

Scope of the Investigation

The product covered by this investigation is cold-rolled steel from the United Kingdom. For a full description of the scope of this investigation, *see* the ''Scope of the Investigation,'' in Appendix I.

Scope Comments

In accordance with the preamble to the Department's regulations,[4] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice,* as well as additional language proposed by the Department. For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[6] The Department is preliminarily not modifying the scope language as it appeared in the *Initiation Notice.*

Methodology

The Department is conducting this investigation in accordance with section 731 of the Act. Export prices have been calculated in accordance with section 772(a) of the Act. Constructed export prices have been calculated in accordance with section 772(b) of the Act. Normal value (NV) is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our preliminary conclusions, *see* the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination the Department shall determine an estimated all-others rate for all exporters and producers not individually investigated, which shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.[7] Therefore, we preliminary calculated the all-others rate based on a weighted-average of the dumping margins calculated for the mandatory respondents using each company's publicly-ranged values for the merchandise under consideration.[8]

Preliminary Determination

The Department preliminarily determines that the following weighted-average dumping margins exist:

Exporter/producer	Weighted-average margin (percent)
Caparo Precision Strip, Ltd.	5.79
Tata Steel UK Ltd.	31.39
All-Others	28.03

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of cold-rolled steel from the United Kingdom as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

Pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), the Department will instruct CBP to require a cash deposit equal to the weighted-average amount by which the NV exceeds U.S. price as indicated in the chart above. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure and Public Comment

We intend to disclose the calculations performed to interested parties in this proceeding within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Interested parties are invited to comment on this preliminary determination. Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this proceeding, and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[9] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Compliance, ''Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Certain Cold-Rolled Steel Flat Products from the United Kingdom'' (Preliminary Decision Memorandum), dated concurrently with 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 Antidumping Duties; Countervailing Duties,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice,* 80 FR at 51199.

[6] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, ''Certain Cold-Rolled Steel Products From Brazil, the People's Republic of China, India, Japan, the Republic of Korea, the Russian Federation, and the United Kingdom: Scope Comments Decision Memorandum for the Preliminary Determinations,'' dated concurrently with this preliminary determination.

[7] With two respondents, we would normally calculate (A) a weighted-average of the dumping margins calculated for the mandatory respondents; (B) a simple average of the dumping margins calculated for the mandatory respondents; and (C) a weighted-average of the dumping margins calculated for the mandatory respondents using each company's publicly-ranged values for the merchandise under consideration. We would compare (B) and (C) to (A) and select the rate closest to (A) as the most appropriate rate for all other companies. *See Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part,* 75 FR 53661, 53663 (September 1, 2010).

[8] *See* Memorandum to the File, From Thomas Schauer, Senior International Trade Compliance Analyst, ''Antidumping Duty Investigation of Certain Cold-Rolled Steel Flat Products From the United Kingdom: Calculation of All-Others Rate,'' dated concurrently with this preliminary determination.

[9] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filings requirements).

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, U.S. Department of Commerce. All documents must be filed electronically using ACCESS. An electronically-filed request must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice.[10] Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Verification

As provided in section 782(i) of the Act, we intend to verify information relied upon in making our final determination.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by petitioners. 19 CFR 351.210(e)(2) requires that requests by respondents for postponement of a final antidumping determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On February 22, 2016, pursuant to 19 CFR 351.210(b) and (e), Tata Steel UK Ltd. requested that, contingent upon an affirmative preliminary determination of sales at LTFV for the respondents, the Department postpone the final determination and that provisional measures be extended to a period not to exceed six months.[11]

In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because (1) our preliminary determination is affirmative; (2) the requesting exporters account for a significant proportion of exports of the subject merchandise;[12] and (3) no compelling reasons for denial exist, we are postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, we will make our final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.[13]

International Trade Commission (ITC) Notification

In accordance with section 733(f) of the Act, we are notifying the ITC of our affirmative preliminary determination of sales at LTFV. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: February 29, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The products covered by this investigation are certain cold-rolled (cold-reduced), flat-rolled steel products, whether or not annealed, painted, varnished, or coated with plastics or other non-metallic substances. The products covered do not include those that are clad, plated, or coated with metal. The products covered include coils that have a width or other lateral measurement (''width'') of 12.7 mm or greater, regardless of form of coil (*e.g.,* in successively superimposed layers, spirally oscillating, etc.). The products covered also include products not in coils (*e.g.,* in straight lengths) of a thickness less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products covered also include products not in coils (*e.g.,* in straight lengths) of a thickness of 4.75 mm or more and a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, *i.e.,* products which have been ''worked after rolling'' (*e.g.,* products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

(1) Where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above, and

(2) where the width and thickness vary for a specific product (*e.g.,* the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, etc.), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this investigation are products in which: (1) Iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.00 percent of nickel, or
- 0.30 percent of tungsten (also called wolfram), or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium

Unless specifically excluded, products are included in this scope regardless of levels of boron and titanium.

For example, specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, motor lamination steels, Advanced High Strength Steels (AHSS), and Ultra High Strength Steels (UHSS). IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Motor lamination steels contain micro-alloying levels of elements such as silicon and aluminum. AHSS and UHSS are considered high tensile strength and high elongation steels, although AHSS and UHSS are covered whether or not they are high tensile strength or high elongation steels.

Subject merchandise includes cold-rolled steel that has been further processed in a

[10] *See* 19 CFR 351.310(c).

[11] *See* Letter to the Secretary of Commerce from Tata Steel UK Ltd., ''Antidumping Duty Investigation of Certain Cold-Rolled Steel Flat Products From the United Kingdom: Request for Postponement of Final Determination'' (February 22, 2016).

[12] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, from Minoo Hatten, Program Manager, for Antidumping and Countervailing Duty Operations, Office I, ''Antidumping Duty Investigation of Certain Cold-Rolled Steel Flat Products From the United Kingdom: Respondent Selection,'' dated September 14, 2015.

[13] *See also* 19 CFR 351.210(e).

third country, including but not limited to annealing, tempering, painting, varnishing, trimming, cutting, punching, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the cold-rolled steel.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of this investigation unless specifically excluded. The following products are outside of and/or specifically excluded from the scope of this investigation:

- Ball bearing steels; [14]
- Tool steels; [15]
- Silico-manganese steel; [16]
- Grain-oriented electrical steels (GOES) as defined in the final determination of the U.S. Department of Commerce in Grain-Oriented Electrical Steel From Germany, Japan, and Poland.[17]
- Non-Oriented Electrical Steels (NOES), as defined in the antidumping orders issued by the U.S. Department of Commerce in Non-Oriented Electrical Steel From the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan.[18]

The products subject to this investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7209.15.0000, 7209.16.0030, 7209.16.0060, 7209.16.0070, 7209.16.0091, 7209.17.0030, 7209.17.0060, 7209.17.0070, 7209.17.0091, 7209.18.1530, 7209.18.1560, 7209.18.2510, 7209.18.2520, 7209.18.2580, 7209.18.6020, 7209.18.6090, 7209.25.0000, 7209.26.0000, 7209.27.0000, 7209.28.0000, 7209.90.0000, 7210.70.3000, 7211.23.1500, 7211.23.2000, 7211.23.3000, 7211.23.4500, 7211.23.6030, 7211.23.6060, 7211.23.6090, 7211.29.2030, 7211.29.2090, 7211.29.4500, 7211.29.6030, 7211.29.6080, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7225.50.6000, 7225.50.8080, 7225.99.0090, 7226.92.5000, 7226.92.7050, and 7226.92.8050. The products subject to the investigation may also enter under the following HTSUS numbers: 7210.90.9000, 7212.50.0000, 7215.10.0010, 7215.10.0080, 7215.50.0016, 7215.50.0018, 7215.50.0020, 7215.50.0061, 7215.50.0063, 7215.50.0065, 7215.50.0090, 7215.90.5000, 7217.10.1000, 7217.10.2000, 7217.10.3000, 7217.10.7000, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090, 7225.19.0000, 7226.19.1000, 7226.19.9000, 7226.99.0180, 7228.50.5015, 7228.50.5040, 7228.50.5070, 7228.60.8000, and 7229.90.1000.

The HTSUS subheadings above are provided for convenience and U.S. Customs purposes only. The written description of the scope of the investigation is dispositive.

Appendix II—List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Period of Investigation
IV. Scope of the Investigation
V. All-Others Rate
VI. Successor-in-Interest
VII. Discussion of Methodology
  A. Determination of the Comparison Method
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IX. Product Comparisons
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XI. Normal Value
  A. Comparison Market Viability
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  C. Level of Trade
  D. Cost of Production Analysis
  1. Calculation of COP
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  E. Calculation of NV Based on Comparison-Market Prices
XII. Currency Conversion
XIII. Conclusion

[FR Doc. 2016–05007 Filed 3–4–16; 8:45 am]

BILLING CODE 3510–DS–P

[14] Ball bearing steels are defined as steels which contain, in addition to iron, each of the following elements by weight in the amount specified: (i) Not less than 0.95 nor more than 1.13 percent of carbon; (ii) not less than 0.22 nor more than 0.48 percent of manganese; (iii) none, or not more than 0.03 percent of sulfur; (iv) none, or not more than 0.03 percent of phosphorus; (v) not less than 0.18 nor more than 0.37 percent of silicon; (vi) not less than 1.25 nor more than 1.65 percent of chromium; (vii) none, or not more than 0.28 percent of nickel; (viii) none, or not more than 0.38 percent of copper; and (ix) none, or not more than 0.09 percent of molybdenum.

[15] Tool steels are defined as steels which contain the following combinations of elements in the quantity by weight respectively indicated: (i) More than 1.2 percent carbon and more than 10.5 percent chromium; or (ii) not less than 0.3 percent carbon and 1.25 percent or more but less than 10.5 percent chromium; or (iii) not less than 0.85 percent carbon and 1 percent to 1.8 percent, inclusive, manganese; or (iv) 0.9 percent to 1.2 percent, inclusive, chromium and 0.9 percent to 1.4 percent, inclusive, molybdenum; or (v) not less than 0.5 percent carbon and not less than 3.5 percent molybdenum; or (vi) not less than 0.5 percent carbon and not less than 5.5 percent tungsten.

[16] Silico-manganese steel is defined as steels containing by weight: (i) Not more than 0.7 percent of carbon; (ii) 0.5 percent or more but not more than 1.9 percent of manganese, and (iii) 0.6 percent or more but not more than 2.3 percent of silicon.

[17] *See Grain-Oriented Electrical Steel From Germany, Japan, and Poland: Final Determinations of Sales at Less Than Fair Value and Certain Final Affirmative Determination of Critical Circumstances,* 79 FR 42,501, 42,503 (Dep't of Commerce, July 22, 2014). This determination defines grain-oriented electrical steel as ''a flat-rolled alloy steel product containing by weight at least 0.6 percent but not more than 6 percent of silicon, not more than 0.08 percent of carbon, not more than 1.0 percent of aluminum, and no other element in an amount that would give the steel the characteristics of another alloy steel, in coils or in straight lengths.''

[18] *See Non-Oriented Electrical Steel From the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan: Antidumping Duty Orders,* 79 FR 71,741, 71,741–42 (Dep't of Commerce, Dec. 3, 2014). The orders define NOES as ''cold-rolled, flat-rolled, alloy steel products, whether or not in coils, regardless of width, having an actual thickness of 0.20 mm or more, in which the core loss is substantially equal in any direction of magnetization in the plane of the material. The term 'substantially equal' means that the cross grain direction of core loss is no more than 1.5 times the straight grain direction (*i.e.,* the rolling direction) of core loss. NOES has a magnetic permeability that does not exceed 1.65 Tesla when tested at a field of 800 A/m (equivalent to 10 Oersteds) along (*i.e.,* parallel to) the rolling direction of the sheet (*i.e.,* B800 value). NOES contains by weight more than 1.00 percent of silicon but less than 3.5 percent of silicon, not more than 0.08 percent of carbon, and not more than 1.5 percent of aluminum. NOES has a surface oxide coating, to which an insulation coating may be applied.''

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–873]

Certain Cold-Rolled Steel Flat Products From Japan: Affirmative Preliminary Determination of Sales at Less Than Fair Value and Preliminary Affirmative Determination of Critical Circumstances

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

SUMMARY: The Department of Commerce (the ''Department'') preliminarily determines that certain cold-rolled steel flat products (''cold-rolled steel'') from Japan are being, or are likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 733(b) of the Tariff Act of 1930, as amended (''the Act''). The period of investigation (''POI'') is July 1, 2014 through June 30, 2015. JFE Steel Corporation (''JFE'') and Nippon Steel & Sumitomo Metal Corporation (''NSSMC'') are the mandatory respondents in this investigation. The estimated weighted average dumping margins of sales at LTFV are shown in the ''Preliminary Determination'' section of this notice. Interested parties are invited to comment on this preliminary determination.

DATES: Effective March 7, 2016.

FOR FURTHER INFORMATION CONTACT: Trisha Tran, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4852.

SUPPLEMENTARY INFORMATION:

Background

The Department published the notice of initiation of this investigation on August 24, 2015.[1] For a complete

[1] *See Certain Cold-Rolled Steel Flat Products From Brazil, the People's Republic of China, India,*

Continued

description of the events that followed the initiation of this investigation, see the Preliminary Decision Memorandum that is dated concurrently with this determination and is hereby adopted by this notice.[2] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''ACCESS''). ACCESS is available to registered users at *https://access.trade.gov,* and 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 found at *http://enforcement.trade.gov/frn/.* The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

On November 30, 2015, the Department published notice of the 50-day postponement for the preliminary determination in this investigation, in accordance with section 733(c)(1)(B) of the Act and 19 CFR 351.205(f)(1).[3] In addition, the Department has exercised its discretion to toll all administrative deadlines due to the recent closure of the Federal Government because of Snowstorm ''Jonas''. Thus, all of the deadlines in this segment of the proceeding have been extended by four business days. The revised deadline for the preliminary determination is now February 29, 2016.[4]

Scope of the Investigation

The products covered by this investigation are certain cold-rolled (cold-reduced), flat-rolled steel products, whether or not annealed, painted, varnished, or coated with plastics or other non-metallic substances. For a full description of the scope of this investigation, see the ''Scope of the Investigation,'' in Appendix I.

Scope Comments

In accordance with the preamble to the Department's regulations,[5] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* ''scope'').[6] Certain interested parties commented on the scope of the investigation, as it appeared in the *Initiation Notice,* as well as on additional language proposed by the Department. For a summary of the product coverage comments and rebuttal responses submitted to the record, and an accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[7] In this investigation, the Department is preliminarily modifying the scope language as it appeared in the *Initiation Notice.*

Methodology

The Department is conducting this investigation in accordance with section 731 of the Act. Pursuant to section 776(a) of the Act, the Department preliminarily relied upon facts otherwise available to assign estimated weighted-average dumping margins to the mandatory respondents, JFE and NSSMC, because JFE and NSSMC each informed the Department that they would not respond to the Department's AD questionnaire and, therefore, would not participate in this investigation as mandatory respondents.[8] Therefore, the Department is preliminarily applying adverse facts available to JFE and NSSMC, in accordance with section 776(b) of Act. *See* Preliminary Decision Memorandum for a complete explanation of the methodology and analysis underlying our preliminary application of adverse facts available.

After JFE and NSSMC informed the Department that they would not participate in this investigation as mandatory respondents, we selected Hitachi Metals Limited (''Hitachi'') as a voluntary respondent on December 10, 2015.[9] On February 22, 2016, Petitioners [10] provided a revised scope clarifying Petitioners' intent with regard to the scope of the investigation to exclude ultra-tempered automotive steel from the scope of the investigation and to limit application of this scope exclusion only to this cold-rolled steel from Japan investigation, which we have accepted for this preliminary determination.[11] Because all of Hitachi's reported home market sales, U.S. sales, and production costs were comprised entirely of ultra-tempered automotive steel strip that meets the specification of the ultra-tempered steel scope exclusion, Hitachi does not have any sales during the POI to investigate and calculate a margin.[12] *See* Preliminary Scope Decision Memoranda for a complete discussion.

Preliminary Affirmative Determination of Critical Circumstances

On October 30, 2015, Petitioners filed timely critical circumstances allegations, pursuant to section 733(e)(1) of the Act and 19 CFR 351.206(c)(1), alleging that critical circumstances exist with respect to imports of the merchandise under consideration from Japan.[13] In accordance with 19 CFR 351.206(c)(2)(i), when a critical circumstances allegation is submitted

Japan, the Republic of Korea, the Netherlands, the Russian Federation, and the United Kingdom: Initiation of Less-Than-Fair-Value Investigations, 80 FR 51198 (August 24, 2015) (''*Initiation Notice*'').

[2] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance ''Decision Memorandum for the Preliminary Determination of the Antidumping Duty Investigation of Certain Cold-Rolled Steel Flat Products from Japan'' (''Preliminary Decision Memorandum''), dated concurrently with this notice.

[3] *See Certain Cold-Rolled Steel Flat Products From Brazil, the People's Republic of China, India, Japan, the Republic of Korea, the Russian Federation, and the United Kingdom: Postponement of Preliminary Determinations of Antidumping Duty Investigations,* 80 FR 74764 (November 30, 2015).

[4] *See* Memorandum to the Record from Ronald Lorentzen, Acting Assistant Secretary for Enforcement & Compliance, regarding ''Tolling of Administrative Deadlines as a Result of the Government Closure during Snowstorm Jonas,'' dated January 27, 2016.

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

[6] *See Initiation Notice,* 80 FR at 51199.

[7] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, ''Certain Cold-Rolled Steel Products From Brazil, the People's Republic of China, India, Japan, the Republic of Korea, the Russian Federation, and the United Kingdom: Scope Comments Decision Memorandum for the Preliminary Determinations,'' dated concurrently with this preliminary determination; *see also* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping Duty Operations, ''Certain Cold-Rolled Steel Products From Japan: Additional Scope Comments and Decision Memorandum for the Preliminary Determination,'' dated concurrently with this preliminary determination (collectively, Preliminary Scope Decision Memorandum).

[8] *See* Letter from JFE, ''Certain Cold-Rolled Steel Flat Products from Japan: Advisement of Non-Participation in Investigation,'' dated November 25, 2015; *see also* Letter from NSSMC, ''Certain Cold-Rolled Steel Flat Products from Japan: NSSMC's Response to Issuance of the Antidumping Duty Questionnaire,'' dated December 1, 2015.

[9] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, ''Antidumping Duty Investigation of Certain Cold-Rolled Steel Flat Products from Japan: Whether to Selection Additional Mandatory and/or Voluntary Respondents,'' dated December 10, 2015.

[10] United States Steel Corporation, AK Steel Corporation, ArcelorMittal USA LLC, Nucor Corporation, Steel Dynamics, Inc., and United States Steel Corporation.

[11] *See* Letter from Petitioners, ''Certain Cold-Rolled Steel Flat Products from Japan: Response to Additional Information Request Regarding Scope,'' dated February 22, 2016.

[12] *See* Preliminary Scope Decision Memoranda. *See also* Letter from Hitachi Metals, ''Certain Cold-Rolled Steel Flat Products from Japan: Hitachi Metals' Pre-Preliminary Determination Comments,'' dated February 12, 2016.

[13] *See* Letter from Petitioners, ''Certain Cold-Rolled Steel Flat Products From The People's Republic of China, Japan, And the Russian Federation—Petitioners' Critical Circumstances Allegation,'' dated October 30, 2015.

more than 20 days before the scheduled date of the preliminary determination, the Department will issue a preliminary finding whether there is a reasonable basis to believe or suspect that critical circumstances exist no later than the date of the preliminary determination. Based on our analyses, in accordance with section 733(e) of the Act and 19 CFR 351.206, we preliminarily find that critical circumstances exist for each of the mandatory respondents in the investigation. That is, with respect to these companies, we preliminarily determine that (1) importers of merchandise knew or should have known that the exporter was selling the merchandise under consideration at LTFV and that there was likely to be material injury in accordance with section 733(e)(1)(A) of the Act; and (2) imports of subject merchandise have been massive over a relatively short period in accordance with section 733(e)(1)(B) of the Act. With respect to all other producers and exporters subject to the investigation concerning cold-rolled steel from Japan, we preliminarily do not find that critical circumstances exist. For a full description of the methodology and results of our critical circumstances analysis, *see* the Preliminary Decision Memorandum.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated ''all-others'' rate shall be an amount equal to the weighted-average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any rates that are zero, *de minimis,* or determined entirely under section 776 of the Act. We cannot apply the methodology described in section 735(c)(5)(A) of the Act to calculate the ''all-others'' rate, as all of the margins in this preliminary determination were calculated under section 776 of the Act. In cases where no weighted-average dumping margins besides zero, *de minimis,* or those determined entirely under section 776 of the Act have been established for individually estimated entities, in accordance with section 735(c)(5)(B) of the Act, the Department averages the margins calculated by the Petitioners in the Petition and applies the result to ''all-other'' entities not individually examined. In this case, however, Petitioners calculated only one margin in the Petition. Therefore, we assigned as the ''all-others'' rate the only margin in the Petition, which is 71.35 percent.[14]

Preliminary Determination

The Department preliminarily determines that the following weighted-average dumping margins exist:

Exporter/producer	Weighted-average margin (percent)
JFE Steel Corporation	71.35
Nippon Steel & Sumitomo Metal Corporation	71.35
All-Others	71.35

In addition, the Department preliminarily determines that voluntary respondent Hitachi Metals Limited has no sales of subject merchandise during to POI to examine.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we will direct U.S. Customs and Border Protection (''CBP'') to suspend liquidation of all entries of cold-rolled steel from Japan, as described in the scope of the investigation, that is entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

Section 733(e)(2) of the Act provides that, given an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the later of (a) the date which is 90 days before the date on which the suspension of liquidation was first ordered, or (b) the date on which notice of initiation of the investigation was published. Because we have preliminarily found that critical circumstances exist with regard to imports exported by the mandatory respondents JFE and NSSMC, we will instruct CBP to suspend liquidation of all entries of cold-rolled steel from Japan, as described in the scope of the investigation, from the mandatory respondents that are entered, or withdrawn from warehouse, for consumption on or after the date that is 90 days prior to the date on which suspension of liquidation is first ordered (*e.g.,* the date of publication of this notice). At such time, we will also instruct CBP, pursuant to section 733 (d)(1)(B) of the Act and 19 CFR 351.205(d), to require a cash deposit equal to the margins indicated in the chart above.[15] The suspension of liquidation will remain in effect until further notice.

Disclosure and Public Comment

We will disclose the calculations that we performed in this investigation to interested parties in this proceeding within five days after the date of public announcement of the preliminary determination in accordance with 19 CFR 351.224(b). Interested parties are invited to comment on this preliminary determination. Interested parties may submit case briefs to the Department no later than 30 days after the publication of this preliminary determination. Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days of the deadline date for the submission of case briefs.[16] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. All documents must be filed electronically using ACCESS.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request for a hearing to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce. An electronically-filed request for a hearing must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice.[17] Hearing requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. 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 time and date to be determined. Parties should confirm by telephone the date,

[14] *See Certain Oil Country Tubular Goods From Thailand: Preliminary Determination of Sales at Less Than Fair Value, and Postponement of Final Determination,* 79 FR 10487 (February 25, 2014), and accompanying Preliminary Decision Memorandum, unchanged in *Certain Oil Country Tubular Goods From India, the Republic of Korea, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Antidumping Duty Orders; and Certain Oil Country Tubular Goods From the Socialist Republic of Vietnam: Amended Final Determination of Sales at Less Than Fair Value,* 79 FR 53691 (September 10, 2014).

[15] *See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations,* 76 FR 61042 (October 3, 2011).

[16] *See* 19 CFR 351.309.

[17] *See* 19 CFR 351.310(c).

time, and location of the hearing two days before the scheduled date.

Verification

Because none of the mandatory respondents in this investigation provided information requested by the Department and the Department preliminarily determines each of the mandatory respondents to have been uncooperative, verification will not be conducted.

International Trade Commission (''ITC'') Notification

In accordance with section 733(f) of the Act, we are notifying the ITC of our affirmative preliminary determination of sales at LTFV. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: February 29, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The products covered by this investigation are certain cold-rolled (cold reduced), flat-rolled steel products, whether or not annealed, painted, varnished, or coated with plastics or other non-metallic substances. The products covered do not include those that are clad, plated, or coated with metal. The products covered include coils that have a width or other lateral measurement (''width'') of 12.7 mm or greater, regardless of form of coil (*e.g.,* in successively superimposed layers, spirally oscillating, etc.). The products covered also include products not in coils (*e.g.,* in straight lengths) of a thickness less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products covered also include products not in coils (*e.g.,* in straight lengths) of a thickness of 4.75 mm or more and a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross section where such cross-section is achieved subsequent to the rolling process, *i.e.,* products which have been ''worked after rolling'' (*e.g.,* products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

(1) Where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above, and

(2) where the width and thickness vary for a specific product (*e.g.,* the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, etc.), the measurement at its greatest width or thickness applies.

Steel products included in the scope of these investigations are products in which: (1) Iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.00 percent of nickel, or
- 0.30 percent of tungsten (also called wolfram), or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium

Unless specifically excluded, products are included in this scope regardless of levels of boron and titanium.

For example, specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, motor lamination steels, Advanced High Strength Steels (AHSS), and Ultra High Strength Steels (UHSS). IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Motor lamination steels contain micro-alloying levels of elements such as silicon and aluminum. AHSS and UHSS are considered high tensile strength and high elongation steels, although AI–ISS and UHSS are covered whether or not they are high tensile strength or high elongation steels.

Subject merchandise includes cold-rolled steel that has been further processed in a third country, including but not limited to annealing, tempering, painting, varnishing, trimming, cutting, punching, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the cold-rolled steel.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of this investigation unless specifically excluded. The following products are outside of and/or specifically excluded from the scope of this investigation:

- Ball bearing steels; [18]
- Tool steels; [19]
- Silico-manganese steel [20]
- Grain-oriented electrical steels (''GOES'') as defined in the final determination of the U.S. Department of Commerce in *Grain-Oriented Electrical Steel From Germany, Japan, and Poland.*[21]
- Non-Oriented Electrical Steels (''NOES''), as defined in the antidumping orders issued by the U.S. Department of Commerce in *Non-Oriented Electrical Steel From the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan.*[22]

[18] Ball bearing steels are defined as steels which contain, in addition to iron, each of the following elements by weight in the amount specified: (i) Not less than 0.95 nor more than 1.13 percent of carbon; (ii) not less than 0.22 nor more than 0.48 percent of manganese; (iii) none, or not more than 0.03 percent of sulfur; (iv) none, or not more than 0.03 percent of phosphorus; (v) not less than 0.18 nor more than 0.37 percent of silicon; (vi) not less than 1.25 nor more than 1.65 percent of chromium; (vii) none, or not more than 0.28 percent of nickel; (viii) none, or not more than 0.38 percent of copper; and (ix) none, or not more than 0.09 percent of molybdenum.

[19] Tool steels are defined as steels which contain the following combinations of elements in the quantity by weight respectively indicated: (i) More than 1.2 percent carbon and more than 10.5 percent chromium; or (ii) not less than 0.3 percent carbon and 1.25 percent or more but less than 10.5 percent chromium; or (iii) not less than 0.85 percent carbon and 1 percent to 1.8 percent, inclusive, manganese; or (iv) 0.9 percent to 1.2 percent, inclusive, chromium and 0.9 percent to 1.4 percent, inclusive, molybdenum; or (v) not less than 0.5 percent carbon and not less than 3.5 percent molybdenum; or (vi) not less than 0.5 percent carbon and not less than 5.5 percent tungsten.

[20] Silico-manganese steel is defined as steels containing by weight: (i) Not more than 0.7 percent of carbon; (ii) 0.5 percent or more but not more than 1.9 percent of manganese, and (iii) 0.6 percent or more but not more than 2.3 percent of silicon.

[21] *See Grain-Oriented Electrical Steel From Germany, Japan, and Poland: Final Determinations of Sales at Less Than Fair Value and Certain Final Affirmative Determination of Critical Circumstances,* 79 FR 42,501, 42,503 (Dep't of Commerce, July 22, 2014) (''*Grain-Oriented Electrical Steel From Germany, Japan, and Poland'').* This determination defines grain-oriented electrical steel as ''a flat-rolled alloy steel product containing by weight at least 0.6 percent but not more than 6 percent of silicon, not more than 0.08 percent of carbon, not more than 1.0 percent of aluminum, and no other element in an amount that would give the steel the characteristics of another alloy steel, in coils or in straight lengths.''

[22] *See Non-Oriented Electrical Steel From the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan: Antidumping Duty Orders,* 79 FR 71,741, 71,741–42 (Dep't of Commerce, Dec. 3, 2014) (''*Non-Oriented Electrical Steel From the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan'').* The orders define NOES as ''cold-rolled, flat-rolled, alloy steel products, whether or not in coils, regardless of width, having an actual thickness of 0.20 mm or more, in which the core loss is substantially equal in any direction of magnetization in the plane of the material. The term 'substantially equal' means that the cross grain direction of core loss is no more than 1.5 times the straight grain direction (*i.e.,* the rolling direction) of core loss. NOES has a magnetic permeability that does not exceed 1.65 Tesla when tested at a field of 800 A/m (equivalent to 10

Also excluded from the scope of this investigation is ultra-tempered automotive steel, which is hardened, tempered, surface polished, and meets the following specifications:

- Thickness: less than or equal to 1.0 mm;
- Width: less than or equal to 330 mm;
- Chemical composition:

Element	C	Si	Mn	P	S
Weight %	0.90–1.05	0.15–0.35	0.30–0.50	Less than or equal to 0.03 ...	Less than or equal to 0.006.

- Physical properties:

Width less than or equal to 150 mm	Flatness of less than 0.2% of nominal strip width
Width of 150 to 330 mm.	Flatness of less than 5 mm of nominal strip width.

- Microstructure: Completely free from decarburization. Carbides are spheroidal and fine within 1% to 4% (area percentage) and are undissolved in the uniform tempered martensite;
- Surface roughness: less than or equal to 0.80 μm Rz;
- Non-metallic inclusion:
  - Sulfide inclusion less than or equal to 0.04% (area percentage)
  - Oxide inclusion less than or equal to 0.05% (area percentage); and
  - The mill test certificate must demonstrate that the steel is proprietary grade ''PK'' and specify the following:
  - The exact tensile strength, which must be greater than or equal to 1600 N/mm^2;
  - The exact hardness, which must be greater than or equal to 465 Vickers hardness number;
  - The exact elongation, which must be between 2.5% and 9.5%; and
  - Certified as having residual compressive stress within a range of 100 to 400 N/mm^2.

The products subject to this investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7209.15.0000, 7209.16.0030, 7209.16.0060, 7209.16.0070, 7209.16.0091, 7209.17.0030, 7209.17.0060, 7209.17.0070, 7209.17.0091, 7209.18.1530, 7209.18.1560, 7209.18.2510, 7209.18.2520, 7209.18.2580, 7209.18.6020, 7209.18.6090, 7209.25.0000, 7209.26.0000, 7209.27.0000, 7209.28.0000, 7209.90.0000, 7210.70.3000, 7211.23.1500, 7211.23.2000, 7211.23.3000, 7211.23.4500, 7211.23.6030, 7211.23.6060, 7211.23.6090, 7211.29.2030, 7211.29.2090, 7211.29.4500, 7211.29.6030, 7211.29.6080, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7225.50.6000, 7225.50.8080, 7225.99.0090, 7226.92.5000, 7226.92.7050, and 7226.92.8050. The products subject to the investigation may also enter under the following HTSUS numbers: 7210.90.9000, 7212.50.0000, 7215.10.0010, 7215.10.0080, 7215.50.0016, 7215.50.0018, 7215.50.0020, 7215.50.0061, 7215.50.0063, 7215.50.0065, 7215.50.0090, 7215.90.5000, 7217.10.1000, 7217.10.2000, 7217.10.3000, 7217.10.7000, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090, 7225.19.0000, 7226.19.1000, 7226.19.9000, 7226.99.0180, 7228.50.5015, 7228.50.5040, 7228.50.5070, 7228.60.8000, and 7229.90.1000.

The HTSUS subheadings above are provided for convenience and U.S. Customs purposes only. The written description of the scope of the investigation is dispositive.

Appendix II—List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Period of Investigation
IV. Scope of the Investigation
V. Respondent Selection
VI. Application of Facts Available and All-Others Rate
VII. Preliminary Determination of Critical Circumstances
VIII. Verification
IX. Conclusion

[FR Doc. 2016–05005 Filed 3–4–16; 8:45 am]

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Oersteds) along (*i.e.,* parallel to) the rolling direction of the sheet (*i.e.,* B800 value). NOES contains by weight more than 1.00 percent of silicon but less than 3.5 percent of silicon, not more than 0.08 percent of carbon, and not more than 1.5 percent of aluminum. NOES has a surface oxide coating, to which an insulation coating may be applied.''

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–029]

Antidumping Duty Investigation of Certain Cold-Rolled Steel Flat Products From the People's Republic of China: Affirmative Preliminary Determination of Sales at Less Than Fair Value, and Preliminary Affirmative Determination of Critical Circumstances

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

SUMMARY: The Department of Commerce (the Department) preliminarily determines that certain cold-rolled steel flat products (cold-rolled steel) from the People's Republic of China (the PRC) are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). The period of investigation is January 1, 2015, through June 30, 2015. The estimated weighted-average dumping margin is shown in the ''Preliminary Determination'' section of this notice. We invite interested parties to comment on this preliminary determination.

DATES: Effective March 7, 2016.

FOR FURTHER INFORMATION CONTACT: Scott Hoefke or Robert James, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–4947 or (202) 482–0679, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the notice of initiation of this investigation on August 24, 2015.[1] For a complete description of the events that followed the initiation of this investigation, see the Preliminary Decision Memorandum that is dated concurrently with this determination and is hereby adopted by this notice.[2] A list of topics included in the Preliminary Decision Memorandum is included as Appendix I to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and 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 found at *http://enforcement.trade.gov/frn/.* The signed Preliminary Decision Memorandum and electronic version of Preliminary Decision Memorandum are identical in content.

[1] *See Certain Cold-Rolled Steel Flat Products from Brazil, the People's Republic of China, India, Japan, the Republic of Korea, the Netherlands, the Russian Federation, and the United Kingdom: Initiation of Less-Than-Fair-Value Investigations,* 80 FR 51198 (August 24, 2015) (*Initiation Notice*).

[2] *See* Memorandum from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance ''Decision Memorandum for the Preliminary Determination in the Antidumping Duty Investigation of Certain Cold-Rolled Steel Flat Products from the People's Republic of China,'' dated concurrently with and hereby adopted by this notice.

Scope of the Investigation

The products covered by this investigation are cold-rolled steel flat products from the PRC. For a complete description of the scope of this investigation, *see* Appendix II.

Scope Comments

In accordance with the preamble to the Department's regulations,[3] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* ''scope'').[4] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice,* as well as additional language proposed by the Department. For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[5] The Department is preliminarily not modifying the scope language as it appeared in the *Initiation Notice.*

Methodology

The Department is conducting this investigation in accordance with section 731 of the Act. Because none of the potential respondents in this investigation submitted separate rate applications, they are considered to be part of the PRC-wide entity. Further, the PRC-wide entity did not provide necessary quantity-and-value data the Department requested. Therefore, in making this preliminary determination, the Department relied on facts available and, because respondents failed to cooperate by not acting to the best of their ability to respond to the Department's requests for information, we drew an adverse inference in selecting a rate from among the facts otherwise available.[6] For further information, *see* ''Use of Facts Otherwise Available and Adverse Inferences'' in the accompanying Preliminary Decision Memorandum.

Affirmative Preliminary Determination of Critical Circumstances

On October 30, 2015, Petitioners filed a timely critical circumstances allegation, pursuant to section 703(e)(1) and 733(e)(1) of the Act and 19 CFR 351.206, alleging that critical circumstances exist with respect to imports of certain cold-rolled steel flat products from the PRC.[7] We preliminarily determine, on the basis of adverse facts available, that critical circumstances exist for PRC-wide entity. A discussion of our determination can be found in the Preliminary Decision Memorandum at the section, ''Preliminary Determination of Critical Circumstances.''

Preliminary Determination

Company	Dumping rate (percent)
PRC-Wide Entity	265.79

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of cold-rolled steel from the PRC as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

Section 733(e)(2) of the Act provides that, given an affirmative determination of critical circumstance, any suspension of liquidation shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the later of (a) the date which is 90 days before the date on which the suspension of liquidation was first ordered, or (b) the date on which notice of initiation of investigation was published. Accordingly, for the PRC-wide entity, in accordance with section 733(e)(2)(A) of the Act, the suspension of liquidation shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice. We will also instruct CBP, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), to require a cash deposit equal to the margins indicated in the chart above.[8] The suspension of liquidation will remain in effect until further notice.

With respect to the PRC-wide entity, we find that export subsidies constitute 66.03 percent[9] of the preliminarily calculated countervailing duty rate in the concurrent countervailing duty investigation, and thus, we will offset the PRC-wide rate of 265.79 by countervailing duty rate attributable to export subsidies (*i.e.,* 66.03 percent) to calculate the cash deposit rate for this LTFV investigation. Accordingly, the cash deposit rate will be 199.76 percent.

Disclosure and Public Comment

We will disclose the calculations performed to interested parties in this proceeding within five days of the date of announcement of this preliminary determination in accordance with 19 CFR 351.224(b). Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than 30 days after the publication of this preliminary determination in the **Federal Register**.[10] Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[11]

Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[12] This summary should be limited to five pages total, including footnotes.

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

[4] *See Initiation Notice,* 80 FR at 51199.

[5] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, ''Certain Cold-Rolled Steel Products From Brazil, the People's Republic of China, India, Japan, the Republic of Korea, the Russian Federation, and the United Kingdom: Scope Comments Decision Memorandum for the Preliminary Determinations,'' dated concurrently with this preliminary determination.

[6] *See* sections 776(a) and (b) of the Act.

[7] *See* Letter from Petitioners, dated October 30, 2015.

[8] *See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations,* 76 FR 61042 (October 3, 2011).

[9] The following programs were initiated on as export specific in the concurrent countervailing duty investigation were initiated on: Export Loans; Preferential Lending to Cold-Rolled Steel Producers and Exporters Classified As ''Honorable Enterprises''; Preferential Income Tax Subsidies for Foreign Invested Enterprises—Export Oriented FIEs; Programs to Rebate Antidumping Legal Fees; Export Assistance Grants; Subsidies for Development of Famous Export Brands and China World Top Brands; Sub-Central Government Programs to Promote Famous Export Brands and China World Top Brands; Export Interest Subsidies; Export Seller's Credits; Export Buyer's Credits; Export Credit Insurance Subsidies; Export Credit Guarantees''. *See Certain Cold-Rolled Steel Flat Products From Brazil, India, the People's Republic of China, the Republic of Korea, and the Russian Federation: Initiation of Countervailing Duty Investigations,* 80 FR 51206 (August 24, 2015), *see also Countervailing Duty Investigation of Certain Cold-Rolled Steel Flat Products From India: Preliminary Affirmative Determination and Alignment of Final Determination With Final Antidumping Duty Determination,* 80 FR 79562 (December 22, 2015) and accompanying Preliminary Decision Memorandum at 11–15 and Appendix 1.

[10] *See* 19 CFR 351.309(b)(2)(c)(i).

[11] *See* 19 CFR 351.309, *see also* 19 CFR 351.303 (for general filing requirements).

[12] *See* 19 CFR 351.309(c)(2) and (d)(2).

Interested parties who wish to request a hearing must do so in writing within 30 days after the publication of this preliminary determination in the **Federal Register**.[13] Requests should contain the party's name, address, and telephone number; the number of participants; and a list of the issues to be discussed. 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, time, and location to be determined. Parties will be notified of the date, time, and location of any hearing.

Parties must file their case and rebuttal briefs, and any requests for a hearing, electronically using ACCESS.[14] Electronically-filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time on the due dates established above.[15]

International Trade Commission (ITC) Notification

In accordance with section 733(f) of the Act, we are notifying the International Trade Commission (ITC) of our preliminary determination of sales at LTFV. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

This determination is issued and published in accordance with sections 733(f) and 777(i)(I) of the Act and 19 CFR 351.205(c).

Dated: February 29, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I—List of Topics Discussed in the Preliminary Decision Memorandum

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II. Background
III. Period of Investigation
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V. Scope of the Investigation
VI. Discussion of the Methodology
  A. Non-Market Economy Country
  B. The PRC-wide Entity
  C. Application of Facts Available and Adverse Inferences
VII. Adjustment Under Section 777A(F) of the Act
VIII. Adjustment to Cash Deposit Rate for Export Subsidies
IX. Disclosure and Public Comment
X. Conclusion

Appendix II—Scope of the Investigation

The products covered by this investigation are certain cold-rolled (cold-reduced), flat-rolled steel products, whether or not annealed, painted, varnished, or coated with plastics or other non-metallic substances. The products covered do not include those that are clad, plated, or coated with metal. The products covered include coils that have a width or other lateral measurement (''width'') of 12.7 mm or greater, regardless of form of coil (*e.g.,* in successively superimposed layers, spirally oscillating, etc.). The products covered also include products not in coils (*e.g.,* in straight lengths) of a thickness less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products covered also include products not in coils (*e.g.,* in straight lengths) of a thickness of 4.75 mm or more and a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, *i.e.,* products which have been ''worked after rolling'' (*e.g.,* products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

(1) Where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above, and

(2) where the width and thickness vary for a specific product (*e.g.,* the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, etc.), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this investigation are products in which: (1) Iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.00 percent of nickel, or
- 0.30 percent of tungsten (also called wolfram), or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium

Unless specifically excluded, products are included in this scope regardless of levels of boron and titanium.

For example, specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, motor lamination steels, Advanced High Strength Steels (AHSS), and Ultra High Strength Steels (UHSS). IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Motor lamination steels contain micro-alloying levels of elements such as silicon and aluminum. AHSS and UHSS are considered high tensile strength and high elongation steels, although AHSS and UHSS are covered whether or not they are high tensile strength or high elongation steels.

Subject merchandise includes cold-rolled steel that has been further processed in a third country, including but not limited to annealing, tempering, painting, varnishing, trimming, cutting, punching, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the cold-rolled steel.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of this investigation unless specifically excluded. The following products are outside of and/or specifically excluded from the scope of this investigation:

- Ball bearing steels;[16]
- Tool steels;[17]
- Silico-manganese steel;[18]
- Grain-oriented electrical steels (GOES) as defined in the final determination of the U.S. Department of Commerce in Grain-Oriented

[13] *See* 19 CFR 351.310(c).

[14] *See* 19 CFR 351.303(b)(2)(i).

[15] *See* 19 CFR 351.303(b)(1).

[16] Ball bearing steels are defined as steels which contain, in addition to iron, each of the following elements by weight in the amount specified: (i) Not less than 0.95 nor more than 1.13 percent of carbon; (ii) not less than 0.22 nor more than 0.48 percent of manganese; (iii) none, or not more than 0.03 percent of sulfur; (iv) none, or not more than 0.03 percent of phosphorus; (v) not less than 0.18 nor more than 0.37 percent of silicon; (vi) not less than 1.25 nor more than 1.65 percent of chromium; (vii) none, or not more than 0.28 percent of nickel; (viii) none, or not more than 0.38 percent of copper; and (ix) none, or not more than 0.09 percent of molybdenum.

[17] Tool steels are defined as steels which contain the following combinations of elements in the quantity by weight respectively indicated: (i) More than 1.2 percent carbon and more than 10.5 percent chromium; or (ii) not less than 0.3 percent carbon and 1.25 percent or more but less than 10.5 percent chromium; or (iii) not less than 0.85 percent carbon and 1 percent to 1.8 percent, inclusive, manganese; or (iv) 0.9 percent to 1.2 percent, inclusive, chromium and 0.9 percent to 1.4 percent, inclusive, molybdenum; or (v) not less than 0.5 percent carbon and not less than 3.5 percent molybdenum; or (vi) not less than 0.5 percent carbon and not less than 5.5 percent tungsten.

[18] Silico-manganese steel is defined as steels containing by weight: (i) Not more than 0.7 percent of carbon; (ii) 0.5 percent or more but not more than 1.9 percent of manganese, and (iii) 0.6 percent or more but not more than 2.3 percent of silicon.

Electrical Steel From Germany, Japan, and Poland.[19]

• Non-Oriented Electrical Steels (NOES), as defined in the antidumping orders issued by the U.S. Department of Commerce in Non-Oriented Electrical Steel From the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan.[20]

The products subject to this investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7209.15.0000, 7209.16.0030, 7209.16.0060, 7209.16.0070, 7209.16.0091, 7209.17.0030, 7209.17.0060, 7209.17.0070, 7209.17.0091, 7209.18.1530, 7209.18.1560, 7209.18.2510, 7209.18.2520, 7209.18.2580, 7209.18.6020, 7209.18.6090, 7209.25.0000, 7209.26.0000, 7209.27.0000, 7209.28.0000, 7209.90.0000, 7210.70.3000, 7211.23.1500, 7211.23.2000, 7211.23.3000, 7211.23.4500, 7211.23.6030, 7211.23.6060, 7211.23.6090, 7211.29.2030, 7211.29.2090, 7211.29.4500, 7211.29.6030, 7211.29.6080, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7225.50.6000, 7225.50.8080, 7225.99.0090, 7226.92.5000, 7226.92.7050, and 7226.92.8050. The products subject to the investigation may also enter under the following HTSUS numbers: 7210.90.9000, 7212.50.0000, 7215.10.0010, 7215.10.0080, 7215.50.0016, 7215.50.0018, 7215.50.0020, 7215.50.0061, 7215.50.0063, 7215.50.0065, 7215.50.0090, 7215.90.5000, 7217.10.1000, 7217.10.2000, 7217.10.3000, 7217.10.7000, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090, 7225.19.0000, 7226.19.1000, 7226.19.9000, 7226.99.0180, 7228.50.5015, 7228.50.5040, 7228.50.5070, 7228.60.8000, and 7229.90.1000.

The HTSUS subheadings above are provided for convenience and U.S. Customs purposes only. The written description of the scope of the investigation is dispositive.

[19] *See* Grain-Oriented Electrical Steel From Germany, Japan, and Poland: Final Determinations of Sales at Less Than Fair Value and Certain Final Affirmative Determination of Critical Circumstances, 79 FR 42,501, 42,503 (Dep't of Commerce, July 22, 2014). This determination defines grain-oriented electrical steel as ''a flat-rolled alloy steel product containing by weight at least 0.6 percent but not more than 6 percent of silicon, not more than 0.08 percent of carbon, not more than 1.0 percent of aluminum, and no other element in an amount that would give the steel the characteristics of another alloy steel, in coils or in straight lengths.''

[20] *See* Non-Oriented Electrical Steel From the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan: Antidumping Duty Orders, 79 FR 71,741, 71,741–42 (Dep't of Commerce, December 3, 2014). The orders define NOES as ''cold-rolled, flat-rolled, alloy steel products, whether or not in coils, regardless of width, having an actual thickness of 0.20 mm or more, in which the core loss is substantially equal in any direction of magnetization in the plane of the material. The term 'substantially equal' means that the cross grain direction of core loss is no more than 1.5 times the straight grain direction (*i.e.,* the rolling direction) of core loss. NOES has a magnetic permeability that does not exceed 1.65 Tesla when tested at a field of 800 A/m (equivalent to 10 Oersteds) along (*i.e.,* parallel to) the rolling direction of the sheet (*i.e.,* B800 value). NOES contains by weight more than 1.00 percent of silicon but less than 3.5 percent of silicon, not more than 0.08 percent of carbon, and not more than 1.5 percent of aluminum. NOES has a surface oxide coating, to which an insulation coating may be applied.''

[FR Doc. 2016–05001 Filed 3–4–16; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–843]

Certain Cold-Rolled Steel Flat Products From Brazil: Affirmative Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

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

SUMMARY: The Department of Commerce (the Department) preliminarily determines that certain cold-rolled steel flat products (cold-rolled steel) from Brazil are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). The period of investigation (POI) is July 1, 2014, through June 30, 2015. The estimated weighted-average dumping margins of sales at LTFV are shown in the ''Preliminary Determination'' section of this notice. Interested parties are invited to comment on this preliminary determination.

DATES: Effective March 7, 2016.

FOR FURTHER INFORMATION CONTACT: Hermes Pinilla or Joseph Shuler, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3477 or (202) 482–1293, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the notice of initiation of this investigation on August 24, 2015.[1] For a complete description of the events that followed the initiation of this investigation, see the memorandum that is dated concurrently with this determination and hereby adopted by this notice.[2] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov*, and 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 found at *http://enforcement.trade.gov/frn/*. The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

On January 27, 2016, the Department exercised its discretion to toll its administrative deadlines due to the closure of the Federal Government. Thus, the deadline for this preliminary determination has been extended by four business days. The revised deadline for this preliminary determination is February 29, 2016.[3]

Scope of the Investigation

The product covered by this investigation is cold-rolled steel from Brazil. For a full description of the scope of this investigation, see the ''Scope of the Investigation,'' in Appendix I.

Scope Comments

In accordance with the preamble to the Department's regulations,[4] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, ''scope'').[5] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*, as well as additional language proposed by the Department. For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary

[1] *See Certain Cold-Rolled Steel Flat Products From Brazil, the People's Republic of China, India, Japan, the Republic of Korea, the Netherlands, the Russian Federation, and the United Kingdom: Initiation of Less-Than-Fair-Value Investigations*, 80 FR 51198 (August 24, 2015) (*Initiation Notice*).

[2] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Certain Cold-Rolled Steel Flat Products from Brazil'' (Preliminary Decision Memorandum), dated concurrently with 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 Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice*, 80 FR at 51199.

Scope Decision Memorandum.[6] The Department is preliminarily not modifying the scope language as it appeared in the *Initiation Notice.*

Methodology

The Department is conducting this investigation in accordance with section 731 of the Act. Export prices have been calculated in accordance with section 772(a) of the Act. Constructed export prices have been calculated in accordance with section 772(b) of the Act. Normal value (NV) is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our preliminary conclusions, *see* the Preliminary Decision Memorandum.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act. For purposes of this preliminary determination, we are assigning as the ''all-others'' rate the rate of 34.95 percent, which is based on the estimated dumping margin calculated for Companhia Siderurgica Nacional (CSN), the only mandatory respondent for which we calculated a dumping margin, less export subsidies.[7]

Preliminary Determination

The Department preliminarily determines that the following weighted-average dumping margins exist:

Exporter/producer	Weighted-average margin (percent)
Companhia Siderurgica Nacional	38.93
Usinas Siderurgicas de Minas Gerais S.A. (Usiminas)	38.93
All-Others	38.93

[6] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, ''Certain Cold-Rolled Steel Products From Brazil, the People's Republic of China, India, Japan, the Republic of Korea, the Russian Federation, and the United Kingdom: Scope Comments Decision Memorandum for the Preliminary Determinations'' (Preliminary Scope Decision Memorandum), dated concurrently with this preliminary determination.

[7] *See* memorandum entitled, ''Antidumping Duty Investigation of Certain Cold-Rolled Steel Flat Products from Brazil: Calculation of All-Others Rate'' (All-Others Rate Memorandum), dated February 29, 2016.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of cold-rolled steel from Brazil as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

Pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), the Department will instruct CBP to require a cash deposit equal to the weighted-average amount by which the NV exceeds U.S. price, adjusted where appropriate for export subsidies, as follows: (1) The rates for CSN and Usiminas, when adjusted for export subsidies, are 34.8 and 35.11 percent, respectively; (2) if the exporter is not a firm identified in this investigation, but the producer is, the rate will be the rate established for the producer of the subject merchandise, less export subsidies; (3) the rate for all other producers or exporters when adjusted for export subsidies is 34.95 percent.[8] These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

We will disclose the calculations performed to interested parties in this proceeding within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Interested parties are invited to comment on this preliminary determination. Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this proceeding, and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[9] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

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, U.S. Department of Commerce. All documents must be filed electronically using ACCESS. An electronically-filed request must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice.[10] Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Verification

As provided in section 782(i) of the Act, we intend to verify information relied upon in making our final determination.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioners. 19 CFR 351.210(e)(2) requires that requests by respondents for postponement of a final antidumping determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On February 22, and February 25, 2016, pursuant to 19 CFR 351.210(e), CSN and Usiminas requested that the Department postpone the final determination and that provisional measures be extended to a period not to exceed six months.[11]

[8] *See Countervailing Duty Investigation of Certain Cold-Rolled Steel Flat Products From Brazil: Preliminary Affirmative Determination and Alignment of Final Determination With Final Antidumping Duty Determination*, 80 FR 79569 (Dec. 22, 2015) and the accompanying preliminary decision memorandum, dated December 15, 2015; *see* also the All-Others Rate Memorandum.

[9] *See* 19 CFR 351.309.

[10] *See* 19 CFR 351.310(c).

[11] *See* Letter to the Secretary of Commerce from CSN, ''Request for Postponement of Final Determinations,'' (February 22, 2016). *See* also letter to the Secretary of Commerce from Usiminas, ''Cold-Rolled and Hot-Rolled Steel Flat Products from Brazil; Request for Postponement of Final Determinations,'' (February 25, 2016).

In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because (1) our preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, we are postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, we will make our final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.[12]

International Trade Commission (ITC) Notification

In accordance with section 733(f) of the Act, we are notifying the ITC of our affirmative preliminary determination of sales at LTFV. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: February 29, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The products covered by this investigation are certain cold-rolled (cold-reduced), flat-rolled steel products, whether or not annealed, painted, varnished, or coated with plastics or other non-metallic substances. The products covered do not include those that are clad, plated, or coated with metal. The products covered include coils that have a width or other lateral measurement (''width'') of 12.7 mm or greater, regardless of form of coil (*e.g.*, in successively superimposed layers, spirally oscillating, etc.). The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness of 4.75 mm or more and a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, *i.e.*, products which have been ''worked after rolling'' (*e.g.*, products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

(1) Where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above, and

(2) where the width and thickness vary for a specific product (*e.g.*, the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, etc.), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this investigation are products in which: (1) Iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.00 percent of nickel, or
- 0.30 percent of tungsten (also called wolfram), or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium

Unless specifically excluded, products are included in this scope regardless of levels of boron and titanium.

For example, specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, motor lamination steels, Advanced High Strength Steels (AHSS), and Ultra High Strength Steels (UHSS). IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Motor lamination steels contain micro-alloying levels of elements such as silicon and aluminum. AHSS and UHSS are considered high tensile strength and high elongation steels, although AHSS and UHSS are covered whether or not they are high tensile strength or high elongation steels.

Subject merchandise includes cold-rolled steel that has been further processed in a third country, including but not limited to annealing, tempering, painting, varnishing, trimming, cutting, punching, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the cold-rolled steel.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of this investigation unless specifically excluded. The following products are outside of and/or specifically excluded from the scope of this investigation:

- Ball bearing steels; [13]
- Tool steels; [14]
- Silico-manganese steel; [15]
- Grain-oriented electrical steels (GOES) as defined in the final determination of the U.S. Department of Commerce in Grain-Oriented Electrical Steel From Germany, Japan, and Poland.[16]
- Non-Oriented Electrical Steels (NOES), as defined in the antidumping orders issued by the U.S. Department of Commerce in Non-Oriented Electrical Steel From the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan.[17]

[12] *See also* 19 CFR 351.210(e).

[13] Ball bearing steels are defined as steels which contain, in addition to iron, each of the following elements by weight in the amount specified: (i) Not less than 0.95 nor more than 1.13 percent of carbon; (ii) not less than 0.22 nor more than 0.48 percent of manganese; (iii) none, or not more than 0.03 percent of sulfur; (iv) none, or not more than 0.03 percent of phosphorus; (v) not less than 0.18 nor more than 0.37 percent of silicon; (vi) not less than 1.25 nor more than 1.65 percent of chromium; (vii) none, or not more than 0.28 percent of nickel; (viii) none, or not more than 0.38 percent of copper; and (ix) none, or not more than 0.09 percent of molybdenum.

[14] Tool steels are defined as steels which contain the following combinations of elements in the quantity by weight respectively indicated: (i) More than 1.2 percent carbon and more than 10.5 percent chromium; or (ii) not less than 0.3 percent carbon and 1.25 percent or more but less than 10.5 percent chromium; or (iii) not less than 0.85 percent carbon and 1 percent to 1.8 percent, inclusive, manganese; or (iv) 0.9 percent to 1.2 percent, inclusive, chromium and 0.9 percent to 1.4 percent, inclusive, molybdenum; or (v) not less than 0.5 percent carbon and not less than 3.5 percent molybdenum; or (vi) not less than 0.5 percent carbon and not less than 5.5 percent tungsten.

[15] Silico-manganese steel is defined as steels containing by weight: (i) Not more than 0.7 percent of carbon; (ii) 0.5 percent or more but not more than 1.9 percent of manganese, and (iii) 0.6 percent or more but not more than 2.3 percent of silicon.

[16] Grain-Oriented Electrical Steel From Germany, Japan, and Poland: Final Determinations of Sales at Less Than Fair Value and Certain Final Affirmative Determination of Critical Circumstances, 79 FR 42,501, 42,503 (Dep't of Commerce, July 22, 2014). This determination defines grain-oriented electrical steel as ''a flat-rolled alloy steel product containing by weight at least 0.6 percent but not more than 6 percent of silicon, not more than 0.08 percent of carbon, not more than 1.0 percent of aluminum, and no other element in an amount that would give the steel the characteristics of another alloy steel, in coils or in straight lengths.''

[17] Non-Oriented Electrical Steel From the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan: Antidumping Duty Orders, 79 FR 71,741, 71,741–42 (Dep't of Commerce, Dec. 3, 2014). The orders define NOES as ''cold-rolled, flat-rolled, alloy steel products, whether or not in coils, regardless of width, having an actual thickness of 0.20 mm or more, in which the core loss is substantially equal in any direction of magnetization in the plane of the material. The term 'substantially equal' means that the cross grain direction of core loss is no more than 1.5 times the straight grain direction (*i.e.*, the rolling direction) of core loss. NOES has a magnetic permeability that does not exceed 1.65 Tesla when

The products subject to this investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7209.15.0000, 7209.16.0030, 7209.16.0060, 7209.16.0070, 7209.16.0091, 7209.17.0030, 7209.17.0060, 7209.17.0070, 7209.17.0091, 7209.18.1530, 7209.18.1560, 7209.18.2510, 7209.18.2520, 7209.18.2580, 7209.18.6020, 7209.18.6090, 7209.25.0000, 7209.26.0000, 7209.27.0000, 7209.28.0000, 7209.90.0000, 7210.70.3000, 7211.23.1500, 7211.23.2000, 7211.23.3000, 7211.23.4500, 7211.23.6030, 7211.23.6060, 7211.23.6090, 7211.29.2030, 7211.29.2090, 7211.29.4500, 7211.29.6030, 7211.29.6080, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7225.50.6000, 7225.50.8080, 7225.99.0090, 7226.92.5000, 7226.92.7050, and 7226.92.8050. The products subject to the investigation may also enter under the following HTSUS numbers: 7210.90.9000, 7212.50.0000, 7215.10.0010, 7215.10.0080, 7215.50.0016, 7215.50.0018, 7215.50.0020, 7215.50.0061, 7215.50.0063, 7215.50.0065, 7215.50.0090, 7215.90.5000, 7217.10.1000, 7217.10.2000, 7217.10.3000, 7217.10.7000, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090, 7225.19.0000, 7226.19.1000, 7226.19.9000, 7226.99.0180, 7228.50.5015, 7228.50.5040, 7228.50.5070, 7228.60.8000, and 7229.90.1000.

The HTSUS subheadings above are provided for convenience and U.S. Customs purposes only. The written description of the scope of the investigation is dispositive.

Appendix II—List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Period of Investigation
IV. Scope of the Investigation
V. All-Others Rate
VI. Discussion of Methodology
  A. Determination of the Comparison Method
  B. Results of the Differential Pricing Analysis
  C. Application of Facts Available and Adverse Inferences
VII. Date of Sale
VIII. Product Comparisons
IX. Constructed Export Price
X. Normal Value
  A. Comparison Market Viability
  B. Affiliated Party Transactions and Arm's-Length Test
  C. Level of Trade
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  1. Calculation of COP
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  3. Results of the COP Test
  E. Calculation of NV Based on Comparison-Market Prices
XI. Currency Conversion
XII. Conclusion

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tested at a field of 800 A/m (equivalent to 10 Oersteds) along (*i.e.*, parallel to) the rolling direction of the sheet (*i.e.*, B800 value). NOES contains by weight more than 1.00 percent of silicon but less than 3.5 percent of silicon, not more than 0.08 percent of carbon, and not more than 1.5 percent of aluminum. NOES has a surface oxide coating, to which an insulation coating may be applied.''

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–881]

Certain Cold-Rolled Steel Flat Products From the Republic of Korea: Affirmative Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

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

SUMMARY: The Department of Commerce (the Department) preliminarily determines that certain cold-rolled steel flat products (cold-rolled steel) from the Republic of Korea (Korea) are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). The period of investigation (POI) is July 1, 2014, through June 30, 2015. The estimated weighted-average dumping margins of sales at LTFV are shown in the ''Preliminary Determination'' section of this notice. Interested parties are invited to comment on this preliminary determination.

DATES: Effective March 7, 2016.

FOR FURTHER INFORMATION CONTACT: Victoria Cho or Steve Bezirganian, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–5075 or (202) 482–1131.

SUPPLEMENTARY INFORMATION:

Background

The Department published the notice of initiation of this investigation on August 24, 2015.[1] For a complete description of the events that followed the initiation of this investigation, see the Preliminary Decision Memorandum that is dated concurrently with this determination and hereby adopted by this notice.[2] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and 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 found at *http://enforcement.trade.gov/frn/.* The signed Preliminary Decision Memorandum and the electronic version of the Preliminary 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 preliminary determination of this investigation is now February 29, 2016.[3]

Scope of the Investigation

The product covered by this investigation is cold-rolled steel from Korea. For a full description of the scope of this investigation, see the ''Scope of the Investigation,'' in Appendix I.

Scope Comments

In accordance with the preamble to the Department's regulations,[4] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* ''scope'').[5] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice,* as well as additional language proposed by the Department. For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying

[1] *See Certain Cold-Rolled Steel Flat Products From Brazil, the People's Republic of China, India, Japan, the Republic of Korea, the Netherlands, the Russian Federation, and the United Kingdom: Initiation of Less-Than-Fair-Value Investigations,* 80 FR 51198 (August 24, 2015) (*Initiation Notice*).

[2] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Certain Cold-Rolled Steel Flat Products from the Republic of Korea'' (Preliminary Decision Memorandum), dated concurrently with this notice.

[3] *See* Memorandum to the Record from Ron Lorentzen, Acting Assistant Secretary for Enforcement & Compliance, regarding ''Tolling of Administrative Deadlines As a Result of the Government Closure During Snowstorm Jonas,'' dated January 27, 2016.

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

[5] *See Initiation Notice,* 80 FR at 51199.

discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[6] The Department is preliminarily not modifying the scope language as it appeared in the *Initiation Notice.*

Methodology

The Department is conducting this investigation in accordance with section 731 of the Act. Export prices have been calculated in accordance with section 772(a) of the Act. Constructed export prices have been calculated in accordance with section 772(b) of the Act. Normal value (NV) is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our preliminary conclusions, see the Preliminary Decision Memorandum.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.[7]

In this investigation, we calculated weighted-average dumping margins for Hyundai Steel Company and for Daewoo International Corporation and POSCO[8] that are above *de minimis* and which are not based on total facts available. We calculated the all-others rate using a simple average of the dumping margins calculated for the mandatory respondents because complete publicly ranged sales data were not available.[9]

Preliminary Determination

The Department preliminarily determines that the following weighted-average dumping margins exist:

Exporter/producer	Weighted-average margin (percent)
Hyundai Steel Company	2.17
POSCO and Daewoo International Corporation	6.89
All-Others	4.53

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of cold-rolled steel from Korea, as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

Pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), the Department will instruct CBP to require a cash deposit equal to the weighted-average amount by which the NV exceeds U.S. price as indicated in the chart above,[10] adjusted where appropriate for export subsidies.[11] The Department has preliminarily determined in its companion countervailing duty investigation of cold-rolled steel from Korea that subject merchandise exported by POSCO did not benefit from export subsidies.[12] As a result, the Department will make no adjustment to the cash deposit rates. The suspension of liquidation instructions will remain in effect until further notice.

Disclosure

We will disclose the calculations performed to interested parties in this proceeding within five days of the date of public announcement of this preliminary determination in accordance with 19 CFR 351.224(b). Interested parties are invited to comment on this preliminary determination. Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this proceeding, and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[13] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

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, U.S. Department of Commerce. All documents must be filed electronically using ACCESS. An electronically-filed request must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice.[14] Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. 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 time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Verification

As provided in section 782(i) of the Act, we intend to verify information relied upon in making our final determination.

[6] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, ''Certain Cold-Rolled Steel Products From Brazil, the People's Republic of China, India, Japan, the Republic of Korea, the Russian Federation, and the United Kingdom: Scope Comments Decision Memorandum for the Preliminary Determinations'' dated concurrently with this preliminary determination.

[7] With two respondents, we would normally calculate (A) a weighted-average of the dumping margins calculated for the mandatory respondents; (B) a simple average of the dumping margins calculated for the mandatory respondents; and (C) a weighted-average of the dumping margins calculated for the mandatory respondents using each company's publicly-ranged values for the merchandise under consideration. We would compare (B) and (C) to (A) and select the rate closest to (A) as the most appropriate rate for all other companies. *See Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part,* 75 FR 53661, 53663 (September 1, 2010).

[8] We are collapsing the mandatory respondent Daewoo International Corporation (DWI) and POSCO. *See* the Preliminary Decision Memorandum.

[9] *See, e.g., Large Power Transformers From the Republic of Korea: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 77 FR 9204 (February 16, 2012), unchanged in *Final Determination of Sales at Less Than Fair Value,* 77 FR 40857, 40858 (July 11, 2012).

[10] *See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations,* 76 FR 61042 (October 3, 2011).

[11] *See* section 772(c)(1)(C) of the Act. Unlike in administrative reviews, the Department calculates the adjustment for export subsidies in investigations not in the margin calculation program, but in the cash deposit instructions issued to CBP. *See Notice of Final Determination of Sales at Less Than Fair Value, and Negative Determination of Critical Circumstances: Certain Lined Paper Products from India,* 71 FR 45012 (August 8, 2006), and accompanying Issues and Decision Memorandum at Comment 1.

[12] *See Countervailing Duty Investigation of Certain Cold-Rolled Steel Flat Products From the Republic of Korea: Preliminary Negative Determination and Alignment of Final Determination With Final Antidumping Duty Determination,* 80 FR 79567 (December 22, 2015).

[13] *See* 19 CFR 351.309.

[14] *See* 19 CFR 351.310(c).

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by Petitioners. 19 CFR 351.210(e)(2) requires that requests by respondents for postponement of a final antidumping determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On February 3, 2016, pursuant to 19 CFR 351.210(b) and (e), DWI (and affiliate POSCO) and Hyundai Steel Company requested that, contingent upon an affirmative preliminary determination of sales at LTFV for the respondents, the Department postpone the final determination and that provisional measures be extended to a period not to exceed six months.[15]

In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because (1) our preliminary determination is affirmative, in part; (2) the requesting exporters account for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, we are postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, we will make our final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.[16]

International Trade Commission (ITC) Notification

In accordance with section 733(f) of the Act, we are notifying the ITC of our affirmative preliminary determination of sales at LTFV. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: February 29, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The products covered by this investigation are certain cold-rolled (cold-reduced), flat-rolled steel products, whether or not annealed, painted, varnished, or coated with plastics or other non-metallic substances. The products covered do not include those that are clad, plated, or coated with metal. The products covered include coils that have a width or other lateral measurement (''width'') of 12.7 mm or greater, regardless of form of coil (*e.g.,* in successively superimposed layers, spirally oscillating, etc.). The products covered also include products not in coils (*e.g.,* in straight lengths) of a thickness less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products covered also include products not in coils (*e.g.,* in straight lengths) of a thickness of 4.75 mm or more and a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, *i.e.,* products which have been ''worked after rolling'' (*e.g.,* products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

(1) Where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above, and

(2) where the width and thickness vary for a specific product (*e.g.,* the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, etc.), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this investigation are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.00 percent of nickel, or
- 0.30 percent of tungsten (also called wolfram), or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium

Unless specifically excluded, products are included in this scope regardless of levels of boron and titanium.

For example, specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, motor lamination steels, Advanced High Strength Steels (AHSS), and Ultra High Strength Steels (UHSS). IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Motor lamination steels contain micro-alloying levels of elements such as silicon and aluminum. AHSS and UHSS are considered high tensile strength and high elongation steels, although AHSS and UHSS are covered whether or not they are high tensile strength or high elongation steels.

Subject merchandise includes cold-rolled steel that has been further processed in a third country, including but not limited to annealing, tempering, painting, varnishing, trimming, cutting, punching, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the cold-rolled steel.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of this investigation unless specifically excluded. The following products are outside of and/or specifically excluded from the scope of this investigation:

- Ball bearing steels;[17]
- Tool steels;[18]

[15] *See* Letter to the Secretary of Commerce from Daewoo International Corporation and POSCO, ''Request to Postpone the Final Determination'' (February 3, 2016) and also Letter to the Secretary of Commerce from POSCO, ''Request to Postpone the Final Determination'' (February 3, 2016).

[16] *See also* 19 CFR 351.210(e).

[17] Ball bearing steels are defined as steels which contain, in addition to iron, each of the following elements by weight in the amount specified: (i) Not less than 0.95 nor more than 1.13 percent of carbon; (ii) not less than 0.22 nor more than 0.48 percent of manganese; (iii) none, or not more than 0.03 percent of sulfur; (iv) none, or not more than 0.03 percent of phosphorus; (v) not less than 0.18 nor more than 0.37 percent of silicon; (vi) not less than 1.25 nor more than 1.65 percent of chromium; (vii) none, or not more than 0.28 percent of nickel; (viii) none, or not more than 0.38 percent of copper; and (ix) none, or not more than 0.09 percent of molybdenum.

[18] Tool steels are defined as steels which contain the following combinations of elements in the quantity by weight respectively indicated: (i) More than 1.2 percent carbon and more than 10.5 percent chromium; or (ii) not less than 0.3 percent carbon and 1.25 percent or more but less than 10.5 percent chromium; or (iii) not less than 0.85 percent carbon and 1 percent to 1.8 percent, inclusive, manganese; or (iv) 0.9 percent to 1.2 percent, inclusive, chromium and 0.9 percent to 1.4 percent, inclusive, molybdenum; or (v) not less than 0.5 percent carbon and not less than 3.5 percent molybdenum; or (vi) not less than 0.5 percent carbon and not less than 5.5 percent tungsten.

• Silico-manganese steel; [19]

• Grain-oriented electrical steels (GOES) as defined in the final determination of the U.S. Department of Commerce in Grain-Oriented Electrical Steel From Germany, Japan, and Poland.[20]

• Non-Oriented Electrical Steels (NOES), as defined in the antidumping orders issued by the U.S. Department of Commerce in Non-Oriented Electrical Steel From the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan.[21]

The products subject to this investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7209.15.0000, 7209.16.0030, 7209.16.0060, 7209.16.0070, 7209.16.0091, 7209.17.0030, 7209.17.0060, 7209.17.0070, 7209.17.0091, 7209.18.1530, 7209.18.1560, 7209.18.2510, 7209.18.2520, 7209.18.2580, 7209.18.6020, 7209.18.6090, 7209.25.0000, 7209.26.0000, 7209.27.0000, 7209.28.0000, 7209.90.0000, 7210.70.3000, 7211.23.1500, 7211.23.2000, 7211.23.3000, 7211.23.4500, 7211.23.6030, 7211.23.6060, 7211.23.6090, 7211.29.2030, 7211.29.2090, 7211.29.4500, 7211.29.6030, 7211.29.6080, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7225.50.6000, 7225.50.8080, 7225.99.0090, 7226.92.5000, 7226.92.7050, and 7226.92.8050. The products subject to the investigation may also enter under the following HTSUS numbers: 7210.90.9000, 7212.50.0000, 7215.10.0010, 7215.10.0080, 7215.50.0016, 7215.50.0018, 7215.50.0020, 7215.50.0061, 7215.50.0063, 7215.50.0065, 7215.50.0090, 7215.90.5000, 7217.10.1000, 7217.10.2000, 7217.10.3000, 7217.10.7000, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090, 7225.19.0000, 7226.19.1000, 7226.19.9000, 7226.99.0180, 7228.50.5015, 7228.50.5040, 7228.50.5070, 7228.60.8000, and 7229.90.1000.

The HTSUS subheadings above are provided for convenience and U.S. Customs purposes only. The written description of the scope of the investigation is dispositive.

Appendix II—List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Period of Investigation
IV. Scope of the Investigation
V. All-Others Rate
VI. Affiliation and Collapsing
VII. Discussion of Methodology
  A. Determination of the Comparison Method
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XI. Normal Value
  A. Comparison Market Viability
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XIV. Conclusion

[FR Doc. 2016–05006 Filed 3–4–16; 8:45 am]

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[19] Silico-manganese steel is defined as steels containing by weight: (i) Not more than 0.7 percent of carbon; (ii) 0.5 percent or more but not more than 1.9 percent of manganese, and (iii) 0.6 percent or more but not more than 2.3 percent of silicon.

[20] Grain-Oriented Electrical Steel From Germany, Japan, and Poland: Final Determinations of Sales at Less Than Fair Value and Certain Final Affirmative Determination of Critical Circumstances, 79 FR 42501, 42503 (Dep't of Commerce, July 22, 2014). This determination defines grain-oriented electrical steel as ''a flat-rolled alloy steel product containing by weight at least 0.6 percent but not more than 6 percent of silicon, not more than 0.08 percent of carbon, not more than 1.0 percent of aluminum, and no other element in an amount that would give the steel the characteristics of another alloy steel, in coils or in straight lengths.''

[21] Non-Oriented Electrical Steel From the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan: Antidumping Duty Orders, 79 FR 71741, 71741–42 (Dep't of Commerce, Dec. 3, 2014). The orders define NOES as ''cold-rolled, flat-rolled, alloy steel products, whether or not in coils, regardless of width, having an actual thickness of 0.20 mm or more, in which the core loss is substantially equal in any direction of magnetization in the plane of the material. The term 'substantially equal' means that the cross grain direction of core loss is no more than 1.5 times the straight grain direction (*i.e.,* the rolling direction) of core loss. NOES has a magnetic permeability that does not exceed 1.65 Tesla when tested at a field of 800 A/m (equivalent to 10 Oersteds) along (*i.e.,* parallel to) the rolling direction of the sheet (*i.e.,* B800 value). NOES contains by weight more than 1.00 percent of silicon but less than 3.5 percent of silicon, not more than 0.08 percent of carbon, and not more than 1.5 percent of aluminum. NOES has a surface oxide coating, to which an insulation coating may be applied.''

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Scallop Committee Meeting on Wednesday, March 23, 2016, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will be held on Wednesday, March 23, 2016 at 9:30 a.m.

ADDRESSES: The meeting will be held at the Crowne Plaza, 81 Greenwich Ave., Warwick, RI 02886; telephone: (401) 732–6000; fax: (401) 732–0261.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Committee will review the general workload for 2016 based on Council priorities and will discuss recommendations for the Council to consider for setting overall five year research priorities. The Committee will also review outcomes from the recent scallop workshop and may discuss recommendations for the Council to consider in future actions. The Committee will review a work plan for the required five year report that will evaluate the limited access general category IFQ program. Other business may be discussed.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: March 2, 2016.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–04990 Filed 3–4–16; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Scallop Advisory Panel on Tuesday, March 22, 2016, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will

be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will be held on Tuesday, March 22, 2016 at 9:30 a.m.

ADDRESSES: The meeting will be held at the Crowne Plaza, 801 Greenwich Ave., Warwick, RI 02886; telephone: (401) 732–6000; fax: (401) 732–0261.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Advisory Panel will review the general workload for 2016 based on Council priorities and will discuss recommendations for the Committee and Council to consider for setting overall five year research priorities. The Advisory Panel will also review outcomes from the recent scallop workshop and may discuss recommendations for the Committee and Council to consider in future actions. The Advisory Panel will review a work plan for the required five year report that will evaluate the limited access general category IFQ program. Other business may be discussed.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: March 2, 2016.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–04988 Filed 3–4–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Pacific Coast Groundfish Rationalization Sociocultural Study

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before May 6, 2016.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Suzanne Russell, Human Dimensions Team, Northwest Fisheries Science Center, 2725 Montlake Blvd. East, Seattle, WA 98112, (206) 860–3274 or *Suzanne.russell@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for revision and extension of a currently approved information collection. The revision consists of minor changes to the information collection tool.

Historically, changes in fisheries management regulations have been shown to result in impacts to individuals within the fishery. An understanding of social impacts in fisheries—achieved through the collection of data on fishing communities, as well as on individuals who fish—is a requirement under several federal laws. Laws such as the National Environmental Protection Act and the Magnuson Stevens Fishery Conservation Act (as amended 2007) describe such requirements. The collection of this data not only helps to inform legal requirements for the existing management actions, but will inform future management actions requiring equivalent information.

Literature indicates fisheries rationalization programs have an impact on those individuals participating in the affected fishery. The Pacific Fisheries Management Council implemented a rationalization program for the Pacific Coast Groundfish limited entry trawl fishery in January 2011. This research aims to continue to study the individuals in the affected fishery over the long term. Data collection will shift from a timing related to changes in the catch share program design elements to a five-year cycle. In addition, the study will compare results to previous data collection efforts in 2010, 2012, and 2015/2016. The data collected will provide updated and more comprehensive descriptions of the industry as well as allow for analysis of changes the rationalization program may create in the fishery. The measurement of these changes will lead to a greater understanding of the social impacts the management measure may have on the individuals in the fishery. To achieve these goals, it is critical to continue data collection for comparison to previously collected data and establish a time-series which will identify changes over the long term. Analysis can also be correlated with any regulatory adjustments due to the upcoming five-year review of the program. This study will continue data collection efforts to achieve the stated objectives.

This study is managed by the Human Dimensions Team, Ecosystem Science Program, Conservation Biology Division, Northwest Fisheries Science Center, National Marine Fisheries Service, Seattle, WA.

II. Method of Collection

Verbal communication and collaboration with key informants, focus groups, paper surveys, electronic surveys, and in person interviews will be utilized in combination to obtain the greatest breadth of information as possible.

III. Data

OMB Control Number: 0648–0606.

Form Number(s): None.

Type of Review: Regular submission (revision and extension of a current information collection).

Affected Public: Individuals or households; business or other for-profit organizations; not-for-profit institutions. State, local and tribal government.

Estimated Number of Respondents: 500.

Estimated Time per Response: Surveys and focus groups, 1 hour each and interviews, 30 minutes each.

Estimated Total Annual Burden Hours: 750.

Estimated Total Annual Cost to Public: 0 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and

clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 1, 2016.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2016–04888 Filed 3–4–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's (Council) Scientific and Statistical Committee (SSC) will hold a meeting.

DATES: The meeting will be held on Tuesday, March 29, 2016, beginning at 10 a.m. For agenda details, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meeting will be held via webinar. Webinar connection details will be available at: *http://www.mafmc.org.*

Council address: Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331 or on their Web site at *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to discuss issues related to the specification of ABC for blueline tilefish for federal waters off the Northeastern United States north of the Virginia-North Carolina border. The Council anticipates that additional SSC discussion may be necessary following the SSC meeting currently scheduled for March 15–16, 2016 in Baltimore, MD. Information about the joining the webinar will be posted on the Council's Web site at *www.mafmc.org.* Public access to the webinar will also be provided at the Council's offices located at 800 N. State Street, Suite 201, Dover, DE.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: March 2, 2016.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–04989 Filed 3–4–16; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Renew Collection 3038–0104, Exemption for Swaps Between Affiliates

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (''Commission'') is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (''PRA''), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment. This notice solicits comments on reporting requirements relating to Commission regulation 50.52 (Exemption for swaps between affiliates).

DATES: Comments must be submitted on or before May 6, 2016.

ADDRESSES: You may submit comments, identified by ''Exemption for swaps between affiliates,'' and Collection Number 3038–0104 by any of the following methods:

- The Agency's Web site, at *http://comments.cftc.gov/.* Follow the instructions for submitting comments through the Web site.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail above.
- *Federal eRulemaking Portal: http://www.regulations.gov/.* Follow the instructions for submitting comments through the Portal.

Please submit your comments using only one method.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.*

FOR FURTHER INFORMATION CONTACT: Peter A. Kals, Division of Clearing and Risk, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581, (202) 418–5466; email: *pkals@cftc.gov* and refer to OMB Control No. 3038–0104.

SUPPLEMENTARY INFORMATION: Under the PRA, Federal agencies must obtain approval from the Office of Management and Budget (''OMB'') for each collection of information they conduct or sponsor. ''Collection of Information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the Commission is publishing notice of the proposed extension of the collection of information listed below.

Title: Exemption for Swaps Between Affiliates (OMB Control No. 3038–0104). This is a request for extension of a currently approved information collection.

Abstract: Section 2(h)(1)(A) of the Commodity Exchange Act requires certain entities to submit for clearing certain swaps if they are required to be cleared by the Commission. Rule 50.52 permits certain affiliated entities to elect not to clear certain inter-affiliate swaps that otherwise would be required to be cleared, provided that they meet certain conditions. The rule further requires the reporting of certain information if the exemption is elected. This collection pertains to information the Commission needs to monitor use of the exemption and assess market risk in connection therewith. 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.

With respect to the collection of information, the Commission invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of 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.

You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1]

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *http://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the ICR will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

Burden Statement: The respondent burden for this collection is estimated to require one hour per response.

Respondents/Affected Entities: Swap dealers and other multinational corporations.

Estimated Number of Respondents: 75.

Estimated Average Burden Hours per Respondent: 1 hour.

Estimated Total Average Annual Burden Hours on Respondents: 75 hours.

Frequency of Collection: Annually; on occasion.

There are no capital costs or operating and maintenance costs associated with this collection.

[1] 17 CFR 145.9.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: March 2, 2016.

Robert N. Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2016–04999 Filed 3–4–16; 8:45 am]

BILLING CODE P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 10:00 a.m., Friday, March 11, 2016.

PLACE: Three Lafayette Centre, 1155 21st Street NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance, enforcement, and examinations matters. In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's Web site at *http://www.cftc.gov.*

CONTACT PERSON FOR MORE INFORMATION: Christopher Kirkpatrick, 202–418–5964.

Natise Allen,

Executive Assistant.

[FR Doc. 2016–05016 Filed 3–3–16; 11:15 am]

BILLING CODE 6351–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Information Collection; Submission for OMB Review, Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (CNCS) has submitted a public information collection request (ICR) entitled Employers of National Service Annual Survey for review and approval in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, (44 U.S.C. Chapter 35). Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Erin Dahlin, at 202–606–6931 or email to *edahlin@cns.gov.* Individuals who use a telecommunications device for the deaf (TTY–TDD) may call 1–800–833–3722 between 8:00 a.m. and 8:00 p.m. Eastern Time, Monday through Friday.

DATES: Comments may be submitted, identified by the title of the information collection activity, within April 6, 2016.

ADDRESSES: Comments may be submitted, identified by the title of the information collection activity, to the Office of Information and Regulatory Affairs, Attn: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service, by any of the following two methods within 30 days from the date of publication in the **Federal Register**:

(1) *By fax to:* 202–395–6974, Attention: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service; or

(2) *By email to: smar@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments

A 60-day Notice requesting public comment was published in the **Federal Register** on December 9, 2015, Vol 80 FR No. 236. This comment period ended February 8, 2016. No public comments were received from this Notice.

Description: CNCS is soliciting comments concerning its proposed Employers of National Service Annual Survey. The Employers of National Service program is administered by CNCS (in conjunction with the Peace Corps, the National Peace Corps Association, the Points of Light Foundation and the Aspen Institute), and seeks to connect employers from all sectors with AmeriCorps and Peace Corps alumni. Organizations that have joined the initiative will be asked to complete the survey in order to provide updated information and comments about the administration of the program. Information provided is purely voluntary and will not be used for any grant or funding support.

Type of Review: Renewal.

Agency: Corporation for National and Community Service.

Title: Employers of National Service Annual Survey.

OMB Number: None.

Agency Number: None.

Affected Public: Any organization that has already joined the Employers of National Service program.

Total Respondents: 350.

Frequency: Once per year.

Average Time per Response: 15 minutes.

Estimated Total Burden Hours: 87.5 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Dated: March 1, 2016.

Erin Dahlin,

Deputy Chief of Programs.

[FR Doc. 2016–04974 Filed 3–4–16; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Department of the Air Force

U.S. Air Force Academy Board of Visitors Notice of Meeting

AGENCY: U.S. Air Force Academy Board of Visitors, DOD.

ACTION: Meeting notice.

SUMMARY: In accordance with 10 U.S.C. Section 9355, the U.S. Air Force Academy (USAFA) Board of Visitors (BoV) will hold a meeting at the Falcon Club, U.S. Air Force Academy, Colorado Springs, CO. on March 18, 2016. On Friday, the meeting will begin at 9:00 a.m. The purpose of this meeting is to review morale and discipline, social climate, curriculum, instruction, infrastructure, fiscal affairs, academic methods, and other matters relating to the Academy. Specific topics for this meeting include a Superintendent's Update; USAFA Admissions Update; Air Force Academy Athletic Corporation Update. Public attendance at this USAFA BoV meeting shall be accommodated on a first-come, first-served basis up to the reasonable and safe capacity of the meeting room. In addition, any member of the public wishing to provide input to the USAFA BoV should submit a written statement in accordance with 41 CFR Section 102–3.140(c) and section 10(a)(3) of the Federal Advisory Committee Act and the procedures described in this paragraph. Written statements must address the following details: The issue, discussion, and a recommended course of action. Supporting documentation may also be included as needed to establish the appropriate historical context and provide any necessary background information. Written statements can be submitted to the Designated Federal Officer (DFO) at the Air Force address detailed below at any time. However, if a written statement is not received at least 10 calendar days before the first day of the meeting which is the subject of this notice, then it may not be provided to or considered by the BoV until its next open meeting. The DFO will review all timely submissions with the BoV Chairman and ensure they are provided to members of the BoV before the meeting that is the subject of this notice. If after review of timely submitted written comments and the BoV Chairman and DFO deem appropriate, they may choose to invite the submitter of the written comments to orally present the issue during an open portion of the BoV meeting that is the subject of this notice. Members of the BoV may also petition the Chairman to allow specific personnel to make oral presentations before the BoV. In accordance with 41 CFR Section 102–3.140(d), any oral presentations before the BoV shall be in accordance with agency guidelines provided pursuant to a written invitation and this paragraph. Direct questioning of BoV members or meeting participants by the public is not permitted except with the approval of the DFO and Chairman. For the benefit of the public, rosters that list the names of BoV members and any releasable materials presented during the open portions of this BoV meeting shall be made available upon request.

Contact Information: For additional information or to attend this BoV meeting, contact Major Jennifer Hubal, Accessions and Training Division, AF/A1PT, 1040 Air Force Pentagon, Washington, DC 20330, (703) 695–4066, *Jennifer.M.Hubal.mil@mail.mil.*

Henry Williams,

Acting Air Force Federal Register Liaison Officer, Civ, DAF.

[FR Doc. 2016–04980 Filed 3–4–16; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2016–OS–0019]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Notice to add a new system of records.

SUMMARY: The Office of the Secretary of Defense proposes to add a new system of records, DMDC 23 DoD, entitled ''Investigations and Resolutions Case Management System (IRCMS).'' This system will serve as the Department of Defense's enterprise-wide, web-based tracking and case management application that provides an effective mechanism to manage and track Equal Employment Opportunity (EEO) complaints submitted for investigation.

DATES: Comments will be accepted on or before April 6, 2016. This proposed action will be effective the day following the end of the comment period unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

* *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate of Oversight and Compliance, Regulatory and Audit Matters Office, 9010 Defense Pentagon, Washington, DC 20301–9010.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at http://www.regulations.gov as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Cindy Allard, Chief, OSD/JS Privacy Office, Freedom of Information Directorate, Washington Headquarters Service, 1155 Defense Pentagon, Washington, DC 20301–1155, or by phone at (571)372–0461.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at *http://dpcld.defense.gov/.* The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on February 23, 2016, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c

of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: March 2, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DMDC 23 DoD

SYSTEM NAME:

Investigations and Resolutions Case Management System (IRCMS)

SYSTEM LOCATION:

Defense Civilian Personnel Advisory Service (DCPAS), Mark Center, 4800 Mark Center Drive, Enterprise Human Resources Information Systems (EHRIS), Alexandria, VA 22350–1100.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for Federal employment and current and former Department of Defense Federal employees who file complaints of discrimination or reprisal, appeals of agency decisions with the Equal Employment Opportunity (EEO) Commission, petitions for review of decisions of the Merit System Protection Board, or request for review of final decisions in negotiated grievance actions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Complainant's full name, date of birth, race, religion, gender, disability information, national origin; employment information; security clearance and educational information (as it relates to the nature of the EEO complaint); prior EEO activity; home address and telephone number; work telephone number; Agency Docket Number; and information about the alleged discrimination basis(es) and requested relief.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 CFR 1614, Federal Sector Equal Employment Opportunity; E.O. 12106, Transfer of Certain Equal Employment Enforcement Functions; E.O. 11478, Equal Employment Opportunity in the Federal Government, as amended; and Department of Defense Instruction 1400.25, Volume 1614, DoD Civilian Personnel Management System: Investigation of Equal Employment Opportunity (EEO) Complaints.

PURPOSE(S):

Provides an effective mechanism to manage and track EEO complaints submitted for investigation. The system provides a comprehensive repository for case information, electronic file management, and a full-featured report generation module to meet a variety of reporting requirements and program evaluation needs. The IRCMS includes the capability to enter and collect data, manage case deadlines, generate reports and metrics as required, and facilitate case management and program improvement decision-making within DoD. The information is also used to respond to individual Freedom of Information Act (FOIA) requests, Congressional requests, and performance metrics for employees.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted in accordance with 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, the records contained herein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Law Enforcement Routine Use. If a system of records maintained by a DoD Component to carry out its functions indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the agency concerned, whether federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

Disclosure When Requesting Information Routine Use. A record from a system of records maintained by a DoD Component may be disclosed as a routine use to a federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a DoD Component decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

Disclosure of Requested Information Routine Use. A record from a system of records maintained by a DoD Component may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Congressional Inquiries Disclosure Routine Use. Disclosure from a system of records maintained by a DoD Component may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Disclosure to the Office of Personnel Management Routine Use. A record from a system of records subject to the Privacy Act and maintained by a DoD Component may be disclosed to the Office of Personnel Management (OPM) concerning information on pay and leave, benefits, retirement deduction, and any other information necessary for the OPM to carry out its legally authorized government-wide personnel management functions and studies.

Disclosure to the Department of Justice for Litigation Routine Use. A record from a system of records maintained by a DoD Component may be disclosed as a routine use to any component of the Department of Justice for the purpose of representing the Department of Defense, or any officer, employee or member of the Department in pending or potential litigation to which the record is pertinent.

Disclosure of Information to the National Archives and Records Administration Routine Use. A record from a system of records maintained by a DoD Component may be disclosed as a routine use to the National Archives and Records Administration for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

Disclosure to the Merit Systems Protection Board Routine Use. A record from a system of records maintained by a DoD Component may be disclosed as a routine use to the Merit Systems Protection Board, including the Office of the Special Counsel for the purpose of litigation, including administrative proceedings, appeals, special studies of the civil service and other merit systems, review of OPM or component rules and regulations, investigation of alleged or possible prohibited personnel practices; including administrative proceedings involving any individual subject of a DoD investigation, and such other functions, promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

Data Breach Remediation Purposes Routine Use. A record from a system of records maintained by a Component may be disclosed to appropriate

agencies, entities, and persons when (1) The Component suspects or has confirmed that the security or confidentiality of the information in the system of records has been compromised; (2) the Component has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Component or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Components efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

The DoD Blanket Routine Uses set forth at the beginning of the Office of the Secretary of Defense (OSD) compilation of systems of records notices may apply to this system. The complete list of DoD Blanket Routine Uses can be found Online at: *http://dpclo.defense.gov/Privacy/SORNsIndex/BlanketRoutineUses.aspx*.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media.

RETRIEVABILITY:

Complainant name and/or docket number.

SAFEGUARDS:

Physical controls include use of visitor registers and identification badges, electronic key card access, and closed-circuit television monitoring. Technical controls including intrusion detection systems, secure socket layer encryption using DoD Public Key Infrastructure certificates, firewalls, and virtual private networks which protect the data in transit and at rest. Physical and electronic access is limited to individuals who are properly screened and cleared on a need-to-know basis in the performance of their official duties. Usernames, passwords, and Common Access Cards, in addition to role-based access controls are used to control access to the systems data. Procedures are in place to deter and detect browsing and unauthorized access including periodic security audits and monitoring of users' security practices.

RETENTION AND DISPOSAL:

Disposition pending (treat records as permanent until the National Archives and Records Administration has approved the retention and disposition schedule).

SYSTEM MANAGER(S) AND ADDRESS:

Defense Civilian Personnel Advisory Service (DCPAS), Mark Center, 4800 Mark Center Drive, Enterprise Human Resources Information Systems (EHRIS), Alexandria, VA 22350–1100.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether information about themselves is contained in this system of records should address inquiries to Defense Civilian Personnel Advisory Service (DCPAS), Mark Center, 4800 Mark Center Drive, Enterprise Human Resources Information Systems (EHRIS), Alexandria, VA 22350–1100.

Signed, written requests should contain the individual's full name and Agency Docket Number.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address inquiries to the Office of the Secretary of Defense/Joint Staff Freedom of Information Act Requester Service Center, 1155 Defense Pentagon, Washington, DC 20301–1155.

Signed, written requests should contain the name and number of this system of records notice along with the individual's full name and Agency Docket Number.

CONTESTING RECORD PROCEDURES:

The Office of the Secretary of Defense rules for accessing records, for contesting contents and appealing initial agency determinations are contained in Office of the Secretary of Defense Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The individual and the Servicing EEO Office.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2016–04995 Filed 3–4–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 16–04]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Sarah A. Ragan or Heather N. Harwell, DSCA/LMO, (703) 604–1546/(703) 607–5339.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 16–04 with attached Policy Justification and Sensitivity of Technology.

Dated: March 1, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

The Honorable Paul D. Ryan
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

FEB 2 3 2016

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 16-04, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to the United Arab Emirates for defense articles and services estimated to cost $225 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

J. W. Rixey
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology
4. Regional Balance (Classified Document Provided Under Separate Cover)

BILLING CODE 5001–06–C

Transmittal No. 16–04

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* United Arab Emirates

(ii) *Total Estimated Value:*

Major Defense Equipment*	$ 82.664 million
Other	$142.336 million
Total	$225.000 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* The UAE requested a possible sale of eight (8) AN/AAQ–24(V)N Large Aircraft Infrared Countermeasures (LAIRCM) Systems to protect the UAE's C–17 aircraft. Each C–17 aircraft configuration for the LAIRCM system consists of three (3) Guardian Laser Transmitter Assemblies (GLTA), six (6) Ultra-Violet Missile Warning System (UVMWS) Sensors AN/AAR–54, one (1) Control Indicator Unit Replacement (CIUR) and one (1) LAIRCM System Processor Replacement LSPR.

Major Defense Equipment (MDE):

Twenty-four (24) AN/AAQ–24 (V)N Guardian Laser Transmitter Assembles (GLTA) and thirteen (13) spares

Eight (8) AN/AAQ–24 (V)N LAIRCM System Processor Replacement (LSPR) and eleven (11) spares

Forty-eight (48) AN/AAR–54 Ultra-Violet Missile Warning System

(UVMWS) Sensors and twenty-six (26) spares

Non-MDE items include: Control Indicator Unit Replacement (CIUR), Smart Card Assemblies (SCA), High Capacity Cards (HCC), User Data Modules (UDM), Repeaters, COMSEC Key Loaders, initial spares, consumables, support equipment, technical data, repair and return support, engineering design, Group A and Group B installation, flight test and certification, warranties, contractor provided familiarization and training, U.S. Government (USG) manpower and services, and Field Service Representatives (FSR). The total estimated program cost is $225 million.

(iv) *Military Department:* Air Force (AE–D–QAI)

(v) *Prior Related Cases, if any:* FMS Case: AE–D–QAC–17 December 09–$501M, 26 May 10–$250M, 31 July 12–$35M, 28 July 15–$335M. AE–D–QAH–28 July 15–$335M

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex

(viii) *Date Report Delivered to Congress:* 23 February 2016

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

United Arab Emirates-AN/AAQ–24(V)N Large Aircraft Infrared Countermeasures (LAIRCM)

The United Arab Emirates (UAE) requested a possible sale of eight (8) AN/AAQ–24 (V)N LAIRCM for the UAE's C–17 aircraft. Each C–17 aircraft configuration for the LAIRCM system consists of the following major defense equipment (MDE): three (3) Guardian Laser Transmitter Assemblies (GLTA), six (6) Ultra-Violet Missile Warning System (UVMWS) Sensors AN/AAR–54, one (1) LAIRCM System Processor Replacement (LSPR). The sale includes spares bringing the MDE total to thirty-seven (37) GLTA AN/AAQ–24 (V)Ns, nineteen (19) LSPR AN/AAQ–24 (V)Ns, and seventy-four (74) UVMWS Sensors AN/AAR–54. The sale also includes the following non-MDE items: Control Indicator Unit Replacements (CIUR), Smart Card Assemblies (SCA), High Capacity Cards (HCC), User Data Modules (UDM), Repeaters, COMSEC Key Loaders, initial spares, consumables, support equipment, technical data, repair and return support, engineering design, Group A and Group B installation, flight test and certification, U.S. Government manpower and services, and Field Service Representatives (FSR). The total estimated value of MDE is $82.664 million. The total estimated program cost is $225 million.

This proposed sale enhances the foreign policy and national security of the United States by improving the security of a partner country, which has been, and continues to be, an important force for political stability and economic progress in the Middle East.

The proposed purchase of LAIRCM to provide for the protection of UAE's C–17 fleet enhances the safety of UAE airlift aircraft engaging in humanitarian and resupply missions. LAIRCM facilitates a more robust capability into areas of increased missile threats. The UAE will have no problem absorbing and using the AN/AAQ–24 (V)N LAIRCM system.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The prime contractor will be The Boeing Company, Chicago, Illinois. The main sub-contractor is Northrop Grumman Corporation of Rolling Meadows, Illinois. There are no known offset agreements proposed in connection with this potential sale.

This sale includes provisions for one (1) FSR to live in the UAE for up to two (2) years. Implementation of this proposed sale requires multiple temporary trips to the UAE involving U.S. Government or contractor representatives over a period of up to six (6) years for program execution, delivery, technical support, and training.

Transmittal No. 16–04

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

Annex Item No. vii

(vii) *Sensitivity of Technology*

1. The AN/AAQ–24(V)N Large Aircraft Infrared Countermeasures (LAIRCM) is a self-contained, directed energy countermeasures system designed to protect aircraft from infrared-guided surface-to-air missiles. The system features digital technology and micro-miniature solid-state electronics. The system operates in all conditions, detecting incoming missiles and jamming infrared-seeker equipped missiles with aimed bursts of laser energy. The LAIRCM system consists of multiple Ultra-Violet Missile Warning System (UVMWS) Sensor units, Guardian Laser Transmitter Assemblies (GLTA), LAIRCM System Processor Replacement (LSPR), Control Indicator Unit Replacement (CIUR), and a classified High Capacity Card (HCC), and User Data Modules (UDM). The HCC card is loaded into the CIUR prior to flight. When the classified HCC card is not in use, it is removed from the CIUR and put in secure storage. LAIRCM Line Replaceable Units (LRU) hardware is classified SECRET when the classified HCC is inserted into the CIUR. LAIRCM system software, including Operational Flight Program, is classified SECRET. Technical data and documentation to be provided are UNCLASSIFIED.

a. The set of UVMWS Sensor units (AN/AAR–54) are mounted on the aircraft exterior to provide omni-directional protection. The UVMWS Sensors detect the rocket plume of missiles and sends appropriate data signals to the LSPR for processing. The LSPR analyzes the data from each UVMWS Sensors and automatically deploys the appropriate countermeasures via the GLTA. The CIUR displays the incoming threat.

b. The AN/AAR–54 UVMWS Sensor warns of threat missile approach by detecting radiation associated with the rocket motor. The AN/AAR–54 is a small, lightweight, passive, electro-optic, threat warning devise used to detect surface-to-air missiles fired at helicopters and low-flying fixed-wing aircraft and automatically provide countermeasures, as well as audio and visual warning messages to the aircrew. The basic system consists of multiple UVMWS Sensor units, three GLTAs, a LSPR and a CIUR. The set of UVMWS units (each C–17 has six (6)) are mounted on the aircraft exterior to provide omni-directional protection. Hardware is UNCLASSIFIED. Software is SECRET. Technical data and documentation to be provided are UNCLASSIFIED.

2. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification. Moreover, the benefits derived from this sale, as outlined in the Policy Justification, outweigh the potential damage that could result if the sensitive technology were revealed to unauthorized persons.

3. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures or equivalent systems which might reduce system effectiveness or be used in the development of a system with similar or advanced capabilities.

4. All defense articles and services listed in this transmittal have been

authorized for release and export to the United Arab Emirates.

[FR Doc. 2016–04873 Filed 3–4–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID: USN–2016–HQ–0004]

Proposed Collection; Comment Request

AGENCY: Department for Deployment Health, Naval Health Research Center, DON, DOD.

ACTION: Notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995*, the Department for Deployment Health, Naval Health Research Center announces the proposed extension of a 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 May 6, 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 Naval Health Research Center, DoD Center for Deployment Health Research, Department 164, ATTN: Millennium Cohort Program Principal Investigators, 140 Sylvester Rd., San Diego, CA 92106–3521, or call (619) 553–7335.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Prospective Department of Defense Studies of US Military Forces: The Millennium Cohort Study; OMB Control Number 0703–0064.

Needs and Uses: The information collection requirement is necessary to respond to recommendations by Congress and by the Institute of Medicine to perform investigations that systematically collect population-based demographic and health data so as to track and evaluate the health of military personnel throughout the course of their careers and after leaving military service. The Millennium Cohort Family Study also evaluates the impact of military life on military families.

Affected Public: Individuals or Households.

Millennium Cohort Study

Annual Burden Hours: 41,739.
Number of Respondents: 55,652.
Responses per Respondent: 1.
Average Burden per Response: 45 minutes.
Frequency: Every 3 years.

Millennium Cohort Family Study

Annual Burden Hours: 59,025.
Number of Respondents: 78,700.
Responses per Respondent: 1.
Average Burden per Response: 45 minutes.
Frequency: Every 3 years.

Combined Burden of Both Millennium Cohort Studies

Annual Burden Hours: 100,764.
Number of Respondents: 134,352.
Responses per Respondent: 1.
Average Burden per Response: 45 minutes.
Frequency: Every 3 years.

Persons eligible to respond to this survey are those civilians now separated from military service who initially enrolled, gave consent and participated in the Millennium Cohort Study while on active duty in the Army, Navy, Air Force, Marine Corps or US Coast Guard during the first, second, third, or fourth panel enrollment periods in 2001–2003, 2004–2006, 2007–2008, or 2011–2012 respectively, as well as those civilians that choose to participate in the Millennium Cohort Family Study.

Dated: March 2, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016–04985 Filed 3–4–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2016–ICCD–0027]

Agency Information Collection Activities; Comment Request; National Student Loan Data System (NSLDS)

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 revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before May 6, 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–2016–ICCD–0027. 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 Valerie Sherrer, 202–377–3547.

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: National Student Loan Data System (NSLDS)

OMB Control Number: 1845–0035

Type of Review: A revision of an existing information collection

Respondents/Affected Public: State, Local, and Tribal Governments; Private Sector

Total Estimated Number of Annual Responses: 28,188

Total Estimated Number of Annual Burden Hours: 60,798

Abstract: The United States Department of Education will collect data through the National Student Loan Data System from Federal Perkins Loan holders (or their servicers) and Guaranty Agencies (GA) about Federal Perkins, Federal Family Education, and William D. Ford Direct Student Loans to be used to manage the federal student loan programs, develop policy, and determine eligibility for programs under title IV of the Higher Education Act of 1965, as amended (HEA).

Dated: March 1, 2016.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2016–04881 Filed 3–4–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Technical Assistance and Dissemination To Improve Services and Results for Children With Disabilities—Model Demonstration Projects To Improve Literacy Outcomes for English Learners With Disabilities in Grades Three Through Five or Three Through Six

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

SUMMARY:

Overview Information: Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities—Model Demonstration Projects to Improve Literacy Outcomes for English Learners with Disabilities in Grades Three through Five or Three through Six.

Notice inviting applications for a new award for fiscal year (FY) 2016.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.326M.

DATES:

Applications Available: March 7, 2016.

Deadline for Transmittal of Applications: April 21, 2016.

Deadline for Intergovernmental Review: June 20, 2016.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities program is to promote academic achievement and to improve results for children with disabilities by providing technical assistance (TA), supporting model demonstration projects, disseminating useful information, and implementing activities that are supported by scientifically based research.

Priorities: This competition has one absolute priority. In accordance with 34 CFR 75.105(b)(2)(v), the absolute priority is from allowable activities specified in the statute or otherwise authorized in the statute (see sections 663 and 681(d) of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. 1463, 1481(d).

Absolute Priority: For FY 2016 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

Model Demonstration Projects to Improve Literacy Outcomes for English Learners with Disabilities in Grades Three through Five or Three through Six.

Background: IDEA has authorized model demonstrations to improve early intervention, educational, or transitional results for children [1] with disabilities since the mid-1970s. For the purposes of this priority, a model is a set of existing evidence-based interventions and implementation strategies (*i.e.,* core components) that research suggests will improve child, teacher, or system outcomes when implemented with fidelity. Model demonstrations involve investigating the degree to which a given model can be implemented and sustained in typical settings, by staff employed in those settings, while achieving outcomes similar to those attained under research conditions.

The purpose of this priority is to fund three cooperative agreements to establish and operate model demonstration projects that will assess how models can: (a) Improve literacy outcomes for English Learners [2] with disabilities (ELSWDs) in grades three through five or three through six, within a multi-tier system of supports (MTSS) framework; [3] (b) use culturally responsive principles; [4] and (c) be implemented by educators and sustained in general and special education settings.

The most recent average scale scores [5] in reading for fourth graders on the

[1] For the purpose of this priority, the term ''children'' includes infants, toddlers, children, and youth.

[2] For purposes of this priority, the term English Learners refers to those students considered to be Limited English Proficient (LEP) students or English Learners, as those terms are defined under the Elementary and Secondary Education Act, as amended (ESEA), and in the State in which the grantee implements its model demonstration projects under this priority.

[3] Multi-tier System of Supports means a comprehensive continuum of evidence-based, systemic practices to support a rapid response to students' needs, with regular observation to facilitate data-based instructional decisionmaking.

[4] Culturally responsive principles promote redesigning the learning environments to support the development and success of all students. Some examples of incorporating culturally responsive principles into learning environments include communicating high expectations to all students, incorporating students' cultural and home experiences into lessons by reshaping the curriculum to reflect students' experiences, and engaging students in activities where they can converse with one another on topics that tap into their background knowledge and experiences (Aceves & Orosco, 2014; Gay, 2010).

[5] The NAEP Reading scale ranges from 0 to 500. Source: U.S. Department of Education, Institute of

National Assessment of Educational Progress (NAEP, 2014) by subgroup were: English Learners (ELs), 192; students with disabilities (SWDs), 188; ELSWDs, 151; and students who were not ELs or SWDs, 230. Seven percent of ELs, 10 percent of SWDs, and 2 percent of ELSWDs scored at the proficient level compared to 31 percent of students who were not ELs or SWDs (U.S. Department of Education, 2014). These figures are especially troubling because, according to assessments using criteria that correspond to the NAEP skill levels, children who are not proficient readers by the end of third grade are four times more likely to drop out of school than their peers who are proficient readers (Hernandez, 2012). The disparities in achievement as illustrated by these data underscore the challenges that schools encounter in educating ELSWDs.

Children must possess the ability to read for understanding in order to meet college- and career-ready standards (Foorman & Wanzek, 2015). However, children must first develop basic literacy skills, including phonemic awareness, phonics, fluency, vocabulary, and comprehension, to become proficient readers (National Reading Panel, 2000) and to read for understanding.

Therefore, models should be designed to build literacy skills for ELSWDs as a stepping stone to reading for understanding. Approaches to improve literacy must include a combination of effective instruction, modeling, professional development, and evidence-based teaching practices that are appropriate for ELSWDs in both classrooms and small group settings (Giroir, Grimaldo, Vaughn, & Roberts, 2015; Klingner & Soltero-Gonzalez, 2009). In addition, research suggests that proposed models should be replicable across multiple contexts (*e.g.,* content area instruction, small group settings, multiple school sites) with a goal of scaling-up for wider use (Domitrovich et al., 2008).

Priority: The purpose of this priority is to fund three cooperative agreements to establish and operate model demonstration projects that will assess how models can: (a) Improve literacy outcomes for ELSWDs in grades three through five or three through six, within an MTSS framework; (b) use culturally responsive principles; and (c) be implemented by educators and sustained in general and special education settings. Applicants must propose models that meet the following requirements:

(a) The model's core intervention components (*e.g.,* services, assessments, processes, data collection instruments) must include:

(1) A framework that includes, at a minimum, universal screening, progress monitoring, and effective core instruction; [6]

(2) Culturally responsive principles within each component of the framework;

(3) Interventions that meet the needs of the specific population and are supported by scientifically based research;

(4) Practices that are valid and reliable and ensure appropriate identification of ELs as having disabilities;

(5) Measures of literacy outcomes,[7] using standardized measures when applicable, and teacher and systems outcomes, when appropriate;

(6) Measures of language proficiency in the child's first language and English; and

(7) Measures of the model's social validity, *i.e.,* measures of educators', parents', and students' satisfaction with the model components, processes, and outcomes.

(b) The model's core implementation components must include:

(1) Strategies for selecting [8] and recruiting sites, including approaches to introducing the model to and promoting the model among site participants,[9] with consideration given to the following criteria:

(i) Each project must include at least three elementary schools with students in grades three through five or three through six. Each school must have at least 40 percent and no fewer than 100 students who have been identified as ELs in these grades; and

(ii) In each of the schools, at least 10 percent of the identified ELs in grades three through five or three through six must be ELSWDs with literacy goals on their Individualized Education Programs (IEPs);

(2) A lag site implementation, which involves selecting one of the three sites in year one of the project period to begin implementation of the project's model for at least three years, with the other two schools beginning implementation in year two;

(3) A professional development component that includes an evidence-based coaching strategy to enable staff to implement the interventions with fidelity; and

(4) Measures of the performance of the professional development (*e.g.,* improvements in teacher instructional delivery and knowledge) required by paragraph (b)(3) of this section, including measures of the fidelity of implementation.

(c) The core strategies for sustaining the model must include:

(1) Documentation that permits current and future practitioners to replicate and tailor the model at any site; [10] and

(2) Strategies for the grantee to sustain the model, such as developing easily accessible training materials or coordinating with TA providers who might serve as future trainers.

To be considered for funding under this absolute priority, applicants must meet the application requirements contained in this priority. Each project funded under this absolute priority also must meet the programmatic and administrative requirements specified in the priority.

Application Requirements. An applicant must include in its application—

(a) A project design that is at least supported by strong theory (as defined in this notice) that supports the promise (*e.g.,* evidence base) of the proposed model, its components, and processes to improve literacy outcomes for ELSWDs;

(b) A logic model that depicts, at a minimum, the goals, activities, outputs, and outcomes of the proposed model demonstration project. A logic model used in connection with this priority

Education Sciences, National Center for Education Statistics, National Assessment of Educational Progress, 2013 Reading Assessment.

[6] School sites that are selected must have an existing MTSS framework that demonstrates strong core instruction.

[7] Applicants must ensure the confidentiality of individual data, consistent with the requirements of section 444 of the General Education Provisions Act (20 U.S.C. 1232g), commonly known as the ''Family Educational Rights and Privacy Act'' (FERPA), and State laws or regulations concerning the confidentiality of individual records. Final FERPA regulatory changes became effective January 3, 2012, and include requirements for data sharing. Applicants are encouraged to review the final FERPA regulations published on December 2, 2011 (76 FR 75604). Questions can be sent to the Family Policy Compliance Office (*www.ed.gov/fpco*) at (202) 260–3887 or *FERPA@ed.gov.*

[8] For factors to consider when selecting model demonstration sites, the applicant should refer to *Assessing Sites for Model Demonstration: Lessons Learned for OSEP Grantees* at *http://mdcc.sri.com/documents/reports/MDCC_Site_Assessment_Brief_09-30-11.pdf.* The document also contains a site assessment tool.

[9] For factors to consider while preparing for model demonstration implementation, the applicant should refer to *Preparing for Model Demonstration Implementation* at *http://mdcc.sri.com/documents/MDCC_PreparationStage_Brief_Apr2013.pdf.*

[10] For a guide on documenting model demonstration sustainment and replication, the applicant should refer to *Planning for Replication and Dissemination From the Start: Guidelines for Model Demonstration Projects* at *http://mdcc.sri.com/documents/MDCC_ReplicationBrief_SEP2013.pdf.*

communicates how a project will achieve its outcomes and provides a framework for both the formative and summative evaluations of the project;

Note: The following Web sites provide examples for constructing logic models: *www.researchutilization.org/matrix/logicmodel_resource3c.html* and *www.osepideasthatwork.org/logicModel/index.asp.*

(c) A description of the activities and measures to be incorporated into the proposed model demonstration project to improve literacy outcomes for ELSWDs, including a timeline of how and when the components are introduced within the model. A detailed and complete description must include the following:

(1) All the intervention components, including culturally responsive principles and, at a minimum, those components listed under paragraph (a) under the heading *Priority,* and the supporting literature.

(2) The existing and proposed child, teacher, and system outcome measures and social validity measures. The measures should be described as completely as possible, referenced as appropriate, and included, when available, in an appendix.

(3) All the implementation components, including, at a minimum, those listed under paragraph (b) under the heading *Priority,* and the supporting literature. The existing or proposed implementation fidelity measures, including those measuring the fidelity of the professional development strategy, should be described as completely as possible, referenced as appropriate, and included, when available, in an appendix. In addition, this description should include:

(i) Demographics, including, at a minimum, ethnicity, gender, grade level, and age for all ELSWDs at all implementation sites that have been identified and successfully recruited for the purposes of this application using the selection and recruitment strategies described in paragraph (b)(1) under the heading *Priority;*

(ii) Whether the implementation sites are high-poverty, high-need, rural, urban, or suburban LEAs or schools; and

Note: Applicants are encouraged to identify, to the extent possible, the sites willing to participate in the applicant's model demonstration. Final site selection will be determined in consultation with the OSEP project officer following the kick-off meeting described in paragraph (f)(1) of these application requirements.

(iii) The lag design for implementation consistent with the requirements in paragraph (b)(2) under the heading *Priority.*

(4) All the strategies to promote sustaining and replicating the model, including, at a minimum, those listed in paragraph (c) under the heading *Priority.*

(d) A description of the evaluation activities and measures to be incorporated into the proposed model demonstration project. A detailed and complete description must include:

(1) A formative evaluation plan, consistent with the project's logic model, that includes evaluation questions, source(s) for data, a timeline for data collection, and analysis plans. The plan must show how the outcome (*e.g.,* child measures, social validity) and implementation data (*e.g.,* fidelity) will be used separately or in combination to improve the project during the performance period. The plan also must outline how these data will be reviewed by project staff, when they will be reviewed, and how they will be used during the course of the project to adjust the model or its implementation to increase the model's usefulness, generalizability, and potential for sustainability; and

(2) A summative evaluation plan, including a timeline, to collect and analyze data on positive changes to child, teacher, and systems outcome measures over time or relative to comparison groups that can be reasonably attributable to project activities. The plan must show how the child or system outcome and implementation data collected by the project will be used separately or in combination to demonstrate the promise of the model.

(e) A budget for attendance at the following:

(1) A one and one half-day kick-off meeting to be held in Washington, DC, after receipt of the award;

(2) A three-day Project Directors' Conference in Washington, DC, occurring twice during the project performance period; and

(3) Four travel days spread across years two through four of the project period to attend planning meetings, Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP, to be held in Washington, DC, with the OSEP project officer.

Other Project Activities. To meet the requirements of this priority, each project, at a minimum, must:

(a) Communicate and collaborate on an ongoing basis with other relevant Department-funded projects, including, at minimum, OSEP-funded TA centers that might disseminate information on the model or support the scale-up efforts of an effective model;

(b) Maintain ongoing (*i.e.,* at least monthly) telephone and email communication with the OSEP project officer and the other model demonstration projects funded under this priority; and

(c) If the project maintains a Web site, include relevant information about the model, the intervention, and the demonstration activities that meets government- or industry-recognized standards for accessibility.

Competitive Preference Priority: Within this absolute priority, we give competitive preference to applications that address the following priority. Under 34 CFR 75.105(c)(2)(i), we award an additional two points to an application that meets this priority.

The priority is:

Evidence of Promise Supporting the Proposed Model (2 Points).

Projects that are supported by evidence that meets the conditions set out in the definition of ''evidence of promise'' (as defined in this notice). The proposed project must include:

(a) A detailed review of the research that meets at least the evidence of promise standard and that supports the promise (*e.g.,* evidence base) of the proposed model, its components, and processes to improve literacy outcomes for ELSWDs;

(b) A logic model that depicts, at a minimum, the goals, activities, outputs, and outcomes of the proposed model demonstration project. A logic model communicates how a project will achieve its outcomes and provides a framework for both the formative and summative evaluations of the project; and

(c) A description of the activities and measures to be incorporated into the proposed model demonstration project to improve literacy outcomes for ELSWDs, including how and when the components are introduced within the model. A detailed and complete description must contain all of the implementation components, including, at a minimum, those listed under paragraph (a) and linked to supporting literature. The existing or proposed implementation fidelity measures, including those measuring the fidelity of the professional development strategy, should be described as completely as possible, referenced as appropriate, and included, when available, in an appendix.

Note: An applicant addressing this competitive preference priority must identify up to two study citations that meet this standard.

References

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Definitions: The following definitions apply to the priority:

Evidence of promise means there is empirical evidence to support the theoretical linkage(s) between at least one critical component and at least one relevant outcome presented in the logic model for the proposed process, product, strategy, or practice. Specifically, evidence of promise means the conditions in both paragraphs (i) and (ii) of this definition are met:

(i) There is at least one study that is a—

(A) Correlational study with statistical controls for selection bias;

(B) Quasi-experimental design study that meets the What Works Clearinghouse Evidence Standards with reservations; or

(C) Randomized controlled trial that meets the What Works Clearinghouse Evidence Standards with or without reservations.

(ii) The study referenced in paragraph (i) of this definition found a statistically significant or substantively important (defined as a difference of 0.25 standard deviations or larger) favorable association between at least one critical component and one relevant outcome presented in the logic model for the proposed process, product, strategy, or practice.

English Learner, when used with respect to an individual, means an individual—

(A) Who is aged 3 through 21;

(B) Who is enrolled or preparing to enroll in an elementary school or secondary school;

(C)(i) Who was not born in the United States or whose native language is a language other than English;

(ii)(I) Who is a Native American or Alaska Native, or a native resident of the outlying areas; and

(II) Who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or

(iii) Who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and

(D) Whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual—

(i) The ability to meet the State's proficient level of achievement on State assessments described in section 1111(b)(3) of the ESEA;

(ii) The ability to successfully achieve in classrooms where the language of instruction is English; or

(iii) The opportunity to participate fully in society.

Logic model (also referred to as theory of action) means a well-specified conceptual framework that identifies key components of the proposed process, product, strategy, or practice (*i.e.,* the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the relationships among the key components and outcomes, theoretically and operationally.

Quasi-experimental design study means a study using a design that attempts to approximate an experimental design by identifying a comparison group that is similar to the treatment group in important respects. These studies, depending on design and implementation, can meet What Works Clearinghouse Evidence Standards with reservations (but not What Works Clearinghouse Evidence Standards without reservations).

Randomized controlled trial means a study that employs random assignment of, for example, students, teachers, classrooms, schools, or districts to receive the intervention being evaluated (the treatment group) or not to receive the intervention (the control group). The estimated effectiveness of the intervention is the difference between the average outcomes for the treatment group and for the control group. These studies, depending on design and implementation, can meet What Works Clearinghouse Evidence Standards without reservations.

Relevant outcome means the student outcome(s) (or the ultimate outcome if not related to students) the proposed process, product, strategy, or practice is designed to improve; consistent with the specific goals of a program.

Strong theory means a rationale for the proposed process, product, strategy, or practice that includes a logic model.

What Works Clearinghouse Evidence Standards means the standards set forth in the What Works Clearinghouse Procedures and Standards Handbook (Version 3.0, March 2014), which can be found at the following link: *http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19.*

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (APA) (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities and other requirements. Section 681(d) of IDEA, however, makes the public comment requirements of the APA inapplicable to the absolute priority and related definitions in this notice.

Program Authority: 20 U.S.C. 1463 and 1481.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of

the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education (IHEs) only.

II. Award Information

Type of Award: Cooperative agreement.

Estimated Available Funds: $1,200,000.

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: $375,000 to $400,000.

Estimated Average Size of Award: $400,000.

Maximum Award: We will reject and not review any application that proposes a budget exceeding $400,000 for a single budget period of 12 months.

Estimated Number of Awards: 3.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 48 months.

III. Eligibility Information

1. *Eligible Applicants:* State educational agencies (SEAs); LEAs, including public charter schools that are considered LEAs under State law; IHEs; other public agencies; private nonprofit organizations; outlying areas; freely associated States; Indian tribes or tribal organizations; and for-profit organizations.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Eligible Subgrantees:* (a) Under 75.708(b) and (c) a grantee may award subgrants—to directly carry out project activities described in its application—to the following types of entities: SEAs; LEAs, including public charter schools that are considered LEAs under State law; IHEs; other public agencies; private nonprofit organizations; outlying areas; freely associated States; Indian tribes or tribal organizations; and for-profit organizations.

(b) The grantee may award subgrants to entities it has identified in an approved application.

4. *Other General Requirements:*

(a) Recipients of funding under this competition must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA).

(b) Each applicant for, and recipient of, funding under this program must involve individuals with disabilities, or parents of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of IDEA).

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet or from the Education Publications Center (ED Pubs). To obtain a copy via the Internet, use the following address: *www.ed.gov/fund/grant/apply/grantapps/index.html.* To obtain a copy from ED Pubs, write, fax, or call: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov.*

If you request an application package from ED Pubs, be sure to identify this competition as follows: CFDA number 84.326M.

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 person or team listed under *Accessible Format* in section VIII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit Part III to no more than 50 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, reference citations, and captions, as well as all text in charts, tables, figures, graphs, and screen shots.
- Use a font that is 12 point or larger.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

The page limit and double-spacing requirements do not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the abstract (follow the guidance provided in the application package for completing the abstract), the table of contents, the list of priority requirements, the resumes, the reference list, the letters of support, or the appendices. However, the page limit and double-spacing requirements do apply to all of Part III, the application narrative, including all text in charts, tables, figures, graphs, and screen shots.

We will reject your application if you exceed the page limit in the application narrative section or if you apply standards other than those specified in this notice and the application package.

3. *Submission Dates and Times:*

Applications Available: March 7, 2016.

Deadline for Transmittal of Applications: April 21, 2016.

Applications for grants under this competition 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: June 20, 2016.

4. *Intergovernmental Review:* This competition 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 reference 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: *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 competition 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 Model Demonstration Projects to Improve Literacy Outcomes for English Learners with Disabilities in Grades Three through Five or Three through Six competition, CFDA number 84.326M, 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 Model Demonstration Projects to Improve Literacy Outcomes for English Learners with Disabilities in Grades Three through Five or Three through Six competition at *www.Grants.gov.* You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.326, not 84.326M).

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 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 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 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 competition 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. Additional, detailed information on how to attach files is in the application instructions.

• 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 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 p.m., Washington, DC time, on the application deadline date, please contact the person 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 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: Tara Courchaine, U.S. Department of Education, 400 Maryland Avenue SW., Room 5143, Potomac Center Plaza, Washington, DC 20202–5108. FAX: (202) 245–7590.

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 84.326M) 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 84.326M) 550 12th Street SW., Room 7039, 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.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 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).

3. *Additional Review and Selection Process Factors:* In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The standing panel requirements under section 682(b) of IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications. However, if the Department decides to select an equal number of applications in each group for funding, this may result in different cut-off points for fundable applications in each group.

4. *Risk Assessment and Special Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this competition 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 *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:* Under the Government Performance and Results Act of 1993 (GPRA), the Department has established a set of performance measures, including long-term measures, that are designed to yield information on various aspects of the effectiveness and quality of the Technical Assistance and Dissemination to Improve Services and Results for Children With Disabilities program. We will use these measures to evaluate the extent to which projects provide high-quality products and services, the relevance of project products and services to educational and early intervention policy and practice, and the use of products and services to improve educational and early intervention policy and practice.

Projects funded under this competition are required to submit data on these measures as directed by OSEP.

Grantees will be required to report information on their project's performance in annual and final performance reports to the Department (34 CFR 75.590).

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 award, 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 Contact

FOR FURTHER INFORMATION CONTACT: Tara Courchaine, U.S. Department of Education, 400 Maryland Avenue SW., Room 5143, Potomac Center Plaza, Washington, DC 20202–5108. Telephone: (202) 245–6462.

If you use a TDD or a TTY, call the Federal Relay Service, 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) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue SW., Room 5037, Potomac Center Plaza, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

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: March 1, 2016.

Michael K. Yudin,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2016–05026 Filed 3–4–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

International Energy Agency Meetings

AGENCY: Department of Energy.

ACTION: Notice of meetings.

SUMMARY: The Industry Advisory Board (IAB) to the International Energy Agency (IEA) will meet on March 15–16, 2016, at the headquarters of the IEA in Paris, France in connection with a joint meeting of the IEA's Standing Group on Emergency Questions (SEQ) and the IEA's Standing Group on the Oil Market (SOM) on March 17, 2016, in connection with a meeting of the SEQ on that day.

DATES: March 15–17, 2016.

ADDRESSES: 9, rue de la Fédération, Paris, France.

FOR FURTHER INFORMATION CONTACT: Thomas Reilly, Assistant General Counsel for International and National Security Programs, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, 202–586–5000.

SUPPLEMENTARY INFORMATION: In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(i)) (EPCA), the following notice of meetings is provided:

Meetings of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held at the headquarters of the IEA, 9, rue de la Fédération, Paris, France, on March 15, 2016, commencing at 2:00 p.m., continuing at 9:30 a.m. on March 16, 2016 and again at 9:30 a.m. on March 17, 2016. The purpose of this notice is to permit attendance by representatives of U.S. company members of the IAB at a joint meeting of the IEA's Standing Group on Emergency Questions (SEQ) and the IEA's Standing Group on the Oil Markets (SOM) on March 17, to be held at the same location commencing at 9:30 a.m. The IAB will also hold a preparatory meeting among company representatives at the same location at 8:30 a.m. on March 16. The agenda for this preparatory meeting is to review the agenda for the SEQ meeting.

The agenda of the joint meeting of the SEQ is under the control of the SEQ. It is expected that the SEQ will adopt the following agenda:

Day 1

1. Adoption of the Agenda
2. Approval of the Summary Record of the 146th Meeting
3. Status of Compliance with IEP Agreement Stockholding Obligations
4. Australian Compliance Update
5. Bilateral Stockholding in non-OECD Countries
6. Association—Handling Association country participation at SEQ meetings
7. Programme Work Budget
8. Outcome of Ministerial Meeting

Day 2

9. ERR Programme
10. Emergency Response Review of the Slovak Republic
11. Mid-Term Review of Japan
12. Update on Exercise in Capitals (EXCAP)
13. Emergency Response Review of Korea
14. Update on ERE8 Arrangements
15. Mexican Accession
16. Outreach Activities
17. Emergency response Review of Hungary
18. Industry Advisory Board Update
19. Emergency Response Review of Spain
20. Mid-Term Review of United States
21. Oral Reports by Administrations
22. Overview of Emergency Response Legislation
23. Saving Oil in a Hurry—Update
24. ERR Report Re-design
25. Other Business

—Provisional 2016 Schedule of SEQ and SOM Meetings
—31 May–2 June
—27–29 September

The agenda of the SEQ meeting on March 17, 2106 is under the control of the SEQ and the SOM. It is expected that the SEQ and the SOM will adopt the following agenda:

1. Adoption of the Agenda
2. Approval of the Summary Record of the 15 October 2015 Joint Session
3. Report on Russian Oil Prospects
4. Report on Recent Oil Market and Policy Developments in IEA Countries
5. The Current Oil Market Situation
6. Panel: Outlook for Oil Markets
7. Floor discussion
8. Other business

—Tentative schedule of upcoming SEQ and SOM meetings for 2016: 31 May–2 June

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation

Act (42 U.S.C. 6272(c)(1)(A)(ii)), the meetings of the IAB are open to representatives of members of the IAB and their counsel; representatives of members of the IEA's Standing Group on Emergency Questions and the IEA's Standing Group on the Oil Markets; representatives of the Departments of Energy, Justice, and State, the Federal Trade Commission, the General Accounting Office, Committees of Congress, the IEA, and the European Commission; and invitees of the IAB, the SEQ, the SOM, or the IEA.

Issued in Washington, DC, March 2, 2016.

Thomas Reilly,

Assistant General Counsel for International and National Security Programs.

[FR Doc. 2016–04976 Filed 3–4–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Agency Information Collection Extension

AGENCY: Department of Energy.

ACTION: Submission for Office of Management and Budget (OMB) review; comment request.

SUMMARY: The Department of Energy (DOE) has submitted an information collection request to the OMB for extension under the provisions of the Paperwork Reduction Act of 1995. The information collection requests a three-year extension of its Human Reliability Program (HRP), OMB Control Number 1910–5122. This information collection consists of forms that will certify to DOE that respondents were advised of the requirements for occupying or continuing to occupy an HRP position. The forms include: Human Reliability Program Certification (DOE F 470.3), Acknowledgement and Agreement to Participate in the Human Reliability Program (DOE F 470.4), Authorization and Consent to Release Human Reliability Program (HRP) Records in Connection with HRP (DOE F 470.5), Refusal of Consent (DOE F 470.6), and Human Reliability Program (HRP) Alcohol Testing Form (DOE F 470.7). The HRP is a security and safety reliability program for individuals who apply for or occupy certain positions that are critical to the national security. It requires an initial and annual supervisory review, medical assessment, management evaluation, and a DOE personnel security review of all applicants or incumbents. It is also used to ensure that employees assigned to nuclear explosive duties do not have emotional, mental, or physical conditions that could result in an accidental or unauthorized detonation of nuclear explosives.

DATES: Comments regarding this collection must be received on or before April 6, 2016. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, please advise the OMB Desk Officer of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at 202–395–4650.

ADDRESSES: Written comments should be sent to the DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street NW., Washington, DC 20503 and to Regina Cano U.S. Department of Energy, Office of Corporate Security Strategy, Analysis and Special Operations (AU–1.2), 1000 Independence Ave. SW., Washington, DC 20585, telephone at (202) 586–7079, by fax at (202) 586–3333, or by email at *regina.cano@hq.doe.gov,* or information about the collection instruments may be obtained at *http://energy.gov/ehss/information-collection*.

SUPPLEMENTARY INFORMATION: This information collection request contains: (1) OMB No. 1910–5122; (2) Information Collection Request Title: Human Reliability Program; (3) Type of Review: Renewal; (4) Purpose: This collection provides for DOE management to ensure that individuals who occupy HRP positions meet program standards of reliability and physical and mental suitability; (5) Annual Estimated Number of Respondents: 43,960; (6) Annual Estimated Number of Total Responses: 43,999; (7) Annual Estimated Number of Burden Hours: 3,819; (8) Annual Estimated Reporting and Recordkeeping Cost Burden: $332,253; and (9) Response Obligation: Mandatory.

Statutory Authority: 42 U.S.C. 2165; 42 U.S.C. 2201; 42 U.S.C. 5814–5815; 42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; E.O. 10450, 3 CFR 1949–1953 Comp., p. 936, as amended; E.O. 10865, 3 CFR 1959–1963 Comp., p. 398, as amended; 3 CFR Chap. IV.

Issued in Washington, DC, on February 26, 2016.

Stephanie K. Martin,

Acting Director, Office of Resource Management, Office of Environment, Health, Safety and Security.

[FR Doc. 2016–04978 Filed 3–4–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP13–499–000]

Constitution Pipeline; Company, LLC; Notice Rejecting Request for Emergency Motion for Suspension of Non-Mechanical Tree Felling

On February 25, 2016, Megan Holleran filed an emergency motion pursuant to Rule 212 of the Commission's Rules of Practice and Procedure [1] requesting that the Commission require Constitution Pipeline Company, LLC (Constitution) to suspend all non-mechanical tree felling activities on her family's Pennsylvania property [2] pending review of a federal court order (attached to the motion as Exhibit B) in an eminent domain proceeding enjoining certain protest activities. Ms. Holleran asserts that the court order has the effect of expanding the easement area for tree felling beyond the boundaries approved by the Commission and provides a basis for the Commission to reconsider the effects of tree felling activities and/or its issuance of a Certificate of Public Convenience and Necessity to Constitution.

Issues related to the acquisition of property rights by a pipeline under the eminent domain provisions of section 7(h) of the NGA are matters for the applicable state or federal court. Since the Commission has no responsibility or jurisdiction over these matters, the subject motion is rejected.

This notice constitutes final agency action. Requests for rehearing by the Commission of this notice must be filed within 30 days of its issuance, as provided in section 19(a) of the Natural Gas Act,[3] and the Commission's Rules of Practice and Procedure.[4]

Dated: March 1, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–04953 Filed 3–4–16; 8:45 am]

BILLING CODE 6717–01–P

[1] 18 CFR 385.212 (2015).

[2] On January 29, 2016, Constitution was granted a partial notice to proceed with limited non-mechanical tree felling in Pennsylvania. *Constitution Pipeline Co., LLC,* Docket No. CP13–499–000 (January 29, 2016) (delegated letter order).

[3] 15 U.S.C. 717r (2012).

[4] 18 CFR 385.713 (2015).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC16–78–000.
Applicants: Tonopah Solar Energy, LLC.
Description: Application for Authorization Under Section 203 of the Federal Power Act and Request for Waivers and Expedited Action of Tonopah Solar Energy, LLC.
Filed Date: 2/24/16.
Accession Number: 20160224–5041.
Comments Due: 5 p.m. ET 3/16/16.

Docket Numbers: EC16–79–000.
Applicants: RE Astoria 2 LLC.
Description: Application for Authorization Under Section 203 of the Federal Power Act and Request for Expedited Consideration, Confidential Treatment and Waivers of RE Astoria 2 LLC.
Filed Date: 2/24/16.
Accession Number: 20160224–5064.
Comments Due: 5 p.m. ET 3/16/16.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER16–993–000.
Applicants: Pacific Gas and Electric Company.
Description: § 205(d) Rate Filing: Amendment to Western Area Power Administration WDT SA 17 to be effective 4/1/2016.
Filed Date: 2/24/16.
Accession Number: 20160224–5001.
Comments Due: 5 p.m. ET 3/16/16.

Docket Numbers: ER16–994–000.
Applicants: Pacific Gas and Electric Company.
Description: § 205(d) Rate Filing: Amendment to the Western Area Power Administration IA (SA 59) to be effective 4/1/2016.
Filed Date: 2/24/16.
Accession Number: 20160224–5002.
Comments Due: 5 p.m. ET 3/16/16.

Docket Numbers: ER16–995–000.
Applicants: Pacific Gas and Electric Company.
Description: § 205(d) Rate Filing: Amendment No. 1 to the Western Area Power Administration O'Neill GIA (SA 314) to be effective 4/1/2016.
Filed Date: 2/24/16.
Accession Number: 20160224–5003.
Comments Due: 5 p.m. ET 3/16/16.

Docket Numbers: ER16–997–000.
Applicants: Public Service Company of New Mexico.
Description: Initial rate filing: Transmission Service Agreement between PNM and Iberdrola Renewables, LLC to be effective 2/1/2016.
Filed Date: 2/24/16.
Accession Number: 20160224–5032.
Comments Due: 5 p.m. ET 3/16/16.

Docket Numbers: ER16–998–000.
Applicants: South Carolina Electric & Gas Company.
Description: Limited-Scope Section 205 Filing Concerning Depreciation Rates of South Carolina Electric & Gas Company.
Filed Date: 2/24/16.
Accession Number: 20160224–5110.
Comments Due: 5 p.m. ET 3/16/16.

Docket Numbers: ER16–999–000.
Applicants: Greenleaf Energy Unit 1 LLC.
Description: Baseline eTariff Filing: Greenleaf Energy Unit 1 LLC FERC Market-Based Rate Tariff to be effective 2/24/2016.
Filed Date: 2/24/16.
Accession Number: 20160224–5136.
Comments Due: 5 p.m. ET 3/16/16.

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 24, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–04950 Filed 3–4–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR14–17–001]

Colonial Pipeline Company; Notice of Extension and Amendment of Settlement

Take notice that on February 19, 2016, pursuant to Rule 602 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.602 (2015), Colonial Pipeline Company and American Airlines, Inc. (collectively, the Parties) filed an extension and amendment of the settlement agreement. The Parties seek Commission approval to extend and amend the settlement agreement entered into on December 13, 2013 and approved by the Commission in *US Airways, Inc.* v. *Colonial Co.,* 146 FERC ¶ 61,173 (2014), all as more fully explained in the petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern time on March 10, 2016.

Dated: February 24, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–04957 Filed 3–4–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC16–2–000]

Commission Information Collection Activities (FERC–538, FERC–740, FERC–729, FERC–715, FERC–592, FERC–60, FERC–61, and FERC–555A); Comment Request

AGENCY: Federal Energy Regulatory Commission.

ACTION: Comment request.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(a)(1)(D), the Federal Energy Regulatory Commission (Commission or FERC) is submitting information collections FERC–538, FERC–740, FERC–729, FERC–715, FERC–592, FERC–60, FERC–61, and FERC–555A to the Office of Management and Budget (OMB) for review of the information collection requirements. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission previously issued a Notice in the **Federal Register** (80 FR 68312, 11/4/2015) requesting public comments. The Commission received no comments on the FERC–538, FERC–740, FERC–729, FERC–715, FERC–592, FERC–60, FERC–61, or FERC–555A and is making this notation in its submittals to OMB.

DATES: Comments on the collection of information are due by April 6, 2016.

ADDRESSES: Comments filed with OMB, identified by the OMB Control Nos. 1902–0061 (FERC–538), 1902–0254 (FERC–740), 1902–0238 (FERC–729), 1902–0171 (FERC–715), 1902–0157 (FERC–592), or 1902–0215 (FERC–60, FERC–61, and FERC–555A) should be sent via email to the Office of Information and Regulatory Affairs: *oira_submission@omb.gov.* Attention: Federal Energy Regulatory Commission Desk Officer. The Desk Officer may also be reached via telephone at 202–395–0710.

A copy of the comments should also be sent to the Commission, in Docket No. IC16–2–000, by either of the following methods:

- *eFiling at Commission's Web site: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* by telephone at (202) 502–8663, and by fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Type of Request: Three-year extension of the information collections described below with no changes to the current reporting requirements. Please note that each collection is distinct from the next.

Comments: Comments are invited on: (1) Whether the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collections of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collections; and (4) ways to minimize the burden of the collections of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FERC–538, Gas Pipeline Certificates: Section 7(a) Mandatory Initial Service

OMB Control No.: 1902–0061.

Abstract: Under sections 7(a), 10(a) and 16 of Natural Gas Act (NGA),[1] upon application by a person or municipality authorized to engage in the local distribution of natural gas, the Commission may order a natural gas company to extend or improve its transportation facilities, and sell natural gas to the municipality or person and, for such purpose, to extend its transportation facilities to communities immediately adjacent to such facilities or to territories served by the natural gas pipeline company. The Commission uses the application data in order to be fully informed concerning the applicant, and the service the applicant is requesting.

Type of Respondent: Persons or municipalities authorized to engage in the local distribution of natural gas.

Estimate of Annual Burden: The Commission estimates the annual public reporting burden for the information collection as:

FERC–538—GAS PIPELINE CERTIFICATES: SECTION 7(a) MANDATORY INITIAL SERVICE

	Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden and cost per response [2]	Total annual burden hours and total annual cost	Cost per respondent ($)
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1)
Gas Pipeline Certificates	1	1	1	240 hrs.; $17,280	240 hrs.; $17,280	$17,280

FERC–740, Availability of e-Tag Information to Commission Staff

OMB Control No.: 1902–0254.

Abstract: In Order 771,[3] the FERC–740 information collection (providing Commission staff access to e-Tag data) was implemented to provide the Commission, Market Monitoring Units (MMUs), Regional Transmission Organizations (RTOs), and Independent System Operators (ISOs) with information that allows them to perform market surveillance and analysis more

[1] 15 U.S.C. 717f–w.

[2] The estimates for cost per response are derived using the following formula: Average Burden Hours per Response * $72.00 per Hour = Average Cost per Response. The hourly cost figure comes from the FERC average salary plus benefits of $149,489/year because FERC staff believes industry wages plus benefits are similar.

[3] Order 771 was issued in Docket No. RM11–12 (77 FR 76367, 12/28/2012).

effectively. The e-Tag information is necessary to understand the use of the interconnected electricity grid, particularly transactions occurring at interchanges. Due to the nature of the electricity grid, an individual transaction's impact on an interchange cannot be assessed adequately in all cases without information from all connected systems, which is included in the e-Tags. The details of the physical path of a transaction included in the e-Tags helps the Commission to monitor, in particular, interchange transactions effectively, detect and prevent price manipulation over interchanges, and ensure the efficient and orderly use of the transmission grid. For example, the e-Tag data allows the Commission to identify transmission reservations as they go from one market to another and link the market participants involved in that transaction.

Order No. 771 provided the Commission access to e-Tags by requiring that Purchasing-Selling Entities [4] (PSEs) and Balancing Authorities (BAs), list the Commission on the ''CC'' list of e-Tags so that the Commission can receive a copy of the e-Tags. The Commission accesses the e-Tags by contracting with a commercial vendor, OATI.

In early 2014, the North American Energy Standards Board (NAESB) incorporated the requirement that the Commission be added to the ''CC'' list on e-Tags as part of the tagging process.[5] Even before NAESB added the FERC requirement to the tagging standards, the rules behind the ''CC'' list requirement had already been programmed into the industry standard tagging software so as to make the inclusion of FERC in the ''CC'' list automatic. The Commission expects that PSEs and BAs will continue to use existing, automated procedures to create and validate the e-Tags in a way that provides the Commission with access to them. In the rare event that a new BA would need to alert e-Tag administrators that certain tags it generates qualify for exemption under the Commission's regulations (*e.g.,* transmissions from a new Canadian BA into another Canadian BA), this administrative function would be expected to require less than an hour of effort total from both the BA and an e-Tag administrator to include the BA on the exemption list. New exempt BAs occur less frequently than every year, but for the purpose of estimation we will conservatively assume one appears each year creating an additional burden associated with the Commission's FERC–740 requirement of $60.59.[6]

Type of Respondent: Purchasing-Selling Entities and Balancing Authorities.

Estimate of Annual Burden: The Commission estimates the annual public reporting burden (rounded) for the information collection as:

FERC–740—AVAILABILITY OF E-TAG INFORMATION TO COMMISSION STAFF

FERC–740	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden and cost per response (4)	Total annual burden hours and total annual cost (3) * (4) = (5)	Cost per respondent ($) (5) ÷ (1)
Purchasing-Selling Entities (e-Tag Authors).	369	4,404	1,625,326	0	0	$0
Balancing Authorities	101	16,092	1,625,326	0	0	0
New Balancing Authority [as noted above].	1	1	1	1 hr.; $60.59	1 hr.; $60.59	60.59
Total	471				1 hr.; 60.59	60.59

FERC–729, Electric Transmission Facilities

OMB Control No.: 1902–0238.

Abstract: This information collection implements the Commission's mandates under EPAct 2005 section 1221 which authorizes the Commission to issue permits under FPA section 216(b) for electric transmission facilities and the Commission's delegated responsibility to coordinate all other federal authorizations under FPA section 216(h). The related FERC regulations seek to develop a timely review process for siting of proposed electric transmission facilities. The regulations provide for (among other things) an extensive pre-application process that will facilitate maximum participation from all interested entities and individuals to provide them with a reasonable opportunity to present their views and recommendations, with respect to the need for and impact of the facilities, early in the planning stages of the proposed facilities as required under FPA section 216(d).

Additionally, FERC has the authority to issue a permit to construct electric transmission facilities if a state has withheld approval for more than a year or has conditioned its approval in such a manner that it will not significantly reduce transmission congestion or is not economically feasible.[7] FERC envisions that, under certain circumstances, the Commission's review of the proposed facilities may take place after one year of the state's review. Under section 50.6(e)(3) the Commission will not accept applications until one year after the state's review and then from applicants who can demonstrate that a state may withhold or condition approval of proposed facilities to such an extent that the facilities will not be constructed.[8] In cases where FERC's jurisdiction rests on FPA section 216(b)(1)(C),[9] the pre-filing process should not commence until one year

[4] A Purchasing-Selling Entity is the entity that purchases or sells, and takes title to, energy, capacity, and Interconnected Operations Services. Purchasing-Selling Entities may be affiliated or unaffiliated merchants and may or may not own generating facilities. Purchasing-Selling Entities are typically E-Tag Authors.

[5] *NAESB Electronic Tagging Functional Specifications, Version 1.8.2.*

[6] The estimated hourly cost (salary plus benefits) provided in this section is based on the figures for May 2014 posted by the Bureau of Labor Statistics for the Utilities sector (available at *http://www.bls.gov/oes/current/naics2_22.htm#13-0000*) assuming:

- 15 minutes legal (code 23–0000), $129.87 hourly.
- 45 minutes information and record clerk (code 43–4199), $37.50 hourly.

[7] FPA section 216(b)(1)(C).

[8] However, the Commission will not issue a permit authorizing construction of the proposed facilities until, among other things, it finds that the state has, in fact, withheld approval for more than a year or had so conditioned its approval.

[9] In all other instances (*i.e.* where the state does not have jurisdiction to act or otherwise to consider interstate benefits, or the applicant does not qualify to apply for a permit with the State because it does not serve end use customers in the State), the pre-filing process may be commenced at any time.

after the relevant State applications have been filed. This will give states one full year to process an application without any intervening Federal proceedings, including both the pre-filing and application processes. Once that year is complete, an applicant may seek to commence FERC's pre-filing process. Thereafter, once the pre-filing process is complete, the applicant may submit its application for a construction permit.

Type of Respondent: Electric transmission facilities.

Estimate of Annual Burden: The Commission estimates the annual public reporting burden for the information collection as:

FERC–729—ELECTRIC TRANSMISSION FACILITIES

	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden and cost per response [10] (4)	Total annual burden hours and total annual cost (3) * (4) = (5)	Cost per respondent ($) (5)÷(1)
Electric Transmission Facilities	1	1	1	9,600 hrs.; $691,200.	9,600 hrs.; $691,200.	$691,200

FERC–715, Annual Transmission Planning and Evaluation Report

OMB Control No.: 1902–0171.

Abstract: Acting under FPA section 213,[11] FERC requires each transmitting utility that operates integrated transmission system facilities rated above 100 kilovolts (kV) to submit annually:

- Contact information for the FERC–715;
- Base case power flow data (if it does not participate in the development and use of regional power flow data);
- Transmission system maps and diagrams used by the respondent for transmission planning;
- A detailed description of the transmission planning reliability criteria used to evaluate system performance for time frames and planning horizons used in regional and corporate planning;
- A detailed description of the respondent's transmission planning assessment practices (including, but not limited to, how reliability criteria are applied and the steps taken in performing transmission planning studies); and
- A detailed evaluation of the respondent's anticipated system performance as measured against its stated reliability criteria using its stated assessment practices.

The FERC–715 enables the Commission to use the information as part of their regulatory oversight functions which includes:

- The review of rates and charges;
- The disposition of jurisdictional facilities;
- The consolidation and mergers;
- The adequacy of supply and;
- Reliability of nation's transmission grid

The FERC–715 enables the Commission to facilitate and resolve transmission disputes. Additionally, the Office of Electric Reliability (OER) uses the FERC–715 data to help protect and improve the reliability and security of the nation's bulk power system. OER oversees the development and review of mandatory reliability and security standards and ensures compliance with the approved standards by the users, owners, and operators of the bulk power system. OER also monitors and addresses issues concerning the nation's bulk power system including assessments of resource adequacy and reliability.

Without the FERC–715 data, the Commission would be unable to evaluate planned projects or requests related to transmission.

Type of Respondent: Integrated transmission system facilities rated at or above 100 kilovolts (kV).

Estimate of Annual Burden: The Commission estimates the annual public reporting burden for the information collection as:

FERC–715—ANNUAL TRANSMISSION PLANNING AND EVALUATION REPORT

	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden and cost per response [12] (4)	Total annual burden hours and total annual cost (3) * (4) = (5)	Cost per respondent ($) (5) ÷ (1)
Annual Transmission Planning and Evaluation Report.	115	1	115	160 hrs.; $11,520	18,400 hrs.; $1,324,800	$11,520
Total	.....	.....	115	.....	18,400 hrs.; $1,324,800	11,520

FERC–592: Standards of Conduct for Transmission Provider and Marketing Affiliates of Interstate Pipelines

OMB Control No.: 1902–0157.

Type of Request: Three-year extension of the FERC–592 information collection requirements with no changes to the current reporting requirements.

Abstract: The Commission uses the information maintained and posted by the respondents to monitor the pipeline's transportation, sales, and storage activities for its marketing affiliate to deter undue discrimination by pipeline companies in favor of their marketing affiliates. Non-affiliated shippers and other entities (*e.g.* state commissions) also use information to

[10] The estimates for cost per response are derived using the following formula: Average Burden Hours per Response * $72.00 per Hour = Average Cost per Response. The hourly cost figure comes from the FERC average salary of $149,489/year.

[11] 16 U.S.C. 8241.

[12] The estimates for cost per response are derived using the following formula: Average Burden Hours per Response * $72 per Hour = Average Cost per Response. The hourly cost figure comes from the FERC average salary plus benefits of $149,489/year because FERC staff believes industry wages plus benefits are similar. Subject matter experts found that industry employment costs closely resemble FERC's regarding the FERC–715 information collection.

determine whether they have been harmed by affiliate preference and to prepare evidence for proceedings following the filing of a complaint.

18 CFR Part 358 (Standards of Conduct)

Respondents maintain and provide the information required by Part 358 on their internet Web sites. When the Commission requires a pipeline to post information on its Web site following a disclosure of non-public information to its marketing affiliate, non-affiliated shippers obtain comparable access to the non-public transportation information, which allows them to compete with marketing affiliates on a more equal basis.

18 CFR 250.16, and the FERC–592 Log/Format

This form (log/format) provides the electronic formats for maintaining information on discounted transportation transactions and capacity allocation to support monitoring of activities of interstate pipeline marketing affiliates. Commission staff considers discounts given to shippers in litigated rate cases.

Without this information collection:

- The Commission would be unable to effectively monitor whether pipelines are giving discriminatory preference to their marketing affiliates; and
- non-affiliated shippers and state commissions and others would be unable to determine if they have been harmed by affiliate preference or prepare evidence for proceedings following the filing of a complaint.

Type of Respondents: Natural gas pipelines.

Estimate of Annual Burden: [13] The Commission estimates the annual public reporting burden for the information collection as:

FERC–592—STANDARDS OF CONDUCT FOR TRANSMISSION PROVIDERS AND MARKETING AFFILIATES OF INTERSTATE PIPELINES

	Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden and cost per response [14]	Total annual burden hours and total annual cost	Cost per respondent ($)
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1)
FERC 592 [15]	85	1	85	116.62 hrs.; $8,396.64 ...	9,913 hrs.; $713,736	$8,396.64

FERC–60 (Annual Report of Centralized Service Companies), FERC–61 (Narrative Description of Service Company Functions), and FERC–555A (Preservation of Records of Holding Companies and Service Companies Subject to PUHCA 2005)

OMB Control No.: 1902–0215.

Abstract: On August 8, 2005, the Energy Policy Act of 2005, was signed into law, repealing the Public Utility Holding Company Act of 1935 (PUHCA 1935) and enacting the Public Utility Holding Company Act of 2005 (PUHCA 2005). Section 1264 [16] and section 1275 [17] of PUHCA 2005 supplemented FERC's existing ratemaking authority under the Federal Power Act (FPA) to protect customers against improper cross-subsidization or encumbrances of public utility assets, and similarly, FERC's ratemaking authority under the Natural Gas Act (NGA). These provisions of PUHCA 2005 supplemented the FERC's broad authority under FPA section 301 and NGA section 8 to obtain the books and records of regulated companies and any person that controls or is under the influence of such companies if relevant to jurisdictional activities.

FERC Form 60

Form No. 60 is an annual reporting requirement under 18 CFR 366.23 for centralized service companies. The report's function is to collect financial information (including balance sheet, assets, liabilities, billing and charges for associated and non-associated companies) from centralized service companies subject to the jurisdiction of the FERC. Unless Commission rule exempts or grants a waiver pursuant to 18 CFR 366.3 and 366.4 to the holding company system, every centralized service company in a holding company system must prepare and file electronically with the FERC the Form No. 60, pursuant to the General Instructions in the form.

FERC–61

FERC–61 is a filing requirement for service companies in holding company systems (including special purpose companies) that are currently exempt or granted a waiver of FERC's regulations and would not have to file FERC Form 60. Instead, those service companies are required to file, on an annual basis, a narrative description of the service company's functions during the prior calendar year (FERC–61). In complying, a holding company may make a single filing on behalf of all of its service company subsidiaries.

FERC–555A

FERC prescribed a mandated preservation of records requirement for holding companies and service companies (unless otherwise exempted by FERC). This requires them to maintain and make available to FERC, their books and records. The preservation of records requirement provides for uniform records retention by holding companies and centralized service companies subject to PUHCA 2005.

Data from the FERC Form 60, FERC–61, and FERC–555A provide a level of transparency that: (1) Helps protect ratepayers from pass-through of improper service company costs, (2) enables FERC to review and determine cost allocations (among holding company members) for certain non-power goods and services, (3) aids FERC in meeting its oversight and market monitoring obligations, and (4) benefits the public, both as ratepayers and investors. In addition, the FERC's audit staff uses these records during compliance reviews and special analyses.

[13] The Commission defines burden as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, reference 5 Code of Federal Regulations 1320.3.

[14] The estimates for cost per response are derived using the FERC average salary of $149,489/year (or $72.00/hour). The hourly cost figure comes from the FERC average salary plus benefits of $149,489/year because FERC staff believes industry wages plus benefits are similar.

[15] The requirements for this collection are contained in 18 CFR Part 358 and 18 CFR Part 250.16.

[16] Federal Books and Records Access Provision.

[17] Non-Power Goods and Services Provision.

If data from the FERC Form 60, FERC–61, and FERC–555A were not available, FERC would not be able to meet its statutory responsibilities, under EPAct 1992, EPAct of 2005, and PUHCA 2005, and FERC would not have all of the regulatory mechanisms necessary to ensure customer protection.

Type of Respondent: Electric transmission facilities.

Estimate of Annual Burden: The Commission estimates the annual public reporting burden for the information collection as:

FERC–60 (ANNUAL REPORT OF CENTRALIZED SERVICE COMPANIES), FERC–61 (NARRATIVE DESCRIPTION OF SERVICE COMPANY FUNCTIONS), & FERC–555A (PRESERVATION OF RECORDS OF HOLDING COMPANIES AND SERVICE COMPANIES SUBJECT TO PUHCA 2005)

	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden and cost per response (4)	Total annual burden hours and total annual cost (3) * (4) = (5)	Cost per respondent ($) (5) ÷ (1)
FERC–60 [18]	39	1	39	75 hrs.; $4,280	2,925 hrs.; $166,930	$4,280
FERC–61 [19]	100	1	100	0.5 hrs.; $18.75	50 hrs.; $1,875	18.75
FERC–555A [20]	100	1	100	1,080 hrs.; $33,166.80	108,000 hrs.; $3,316,680	33,166.80
Total					110,975 hrs.; $3,485,485	

In addition to the labor (burden hour cost, provided above) for FERC–555A,[21] there are additional costs for records retention and storage:

- 50% of the records are paper. Paper storage costs (using an estimate of 6,000 ft^3): $38,763.75
- 50% of the records are electronic. Electronic storage cost is $15.25/year [22] for each entity, or $1,525 for all entities.

Total record storage cost for FERC–555A for all entities is $40,288.75.

The total annual cost (including burden hours [from table above] and record storage cost) of FERC–555A is $3,356,958.75.

Dated: February 24, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–04956 Filed 3–4–16; 8:45 am]

BILLING CODE 6717–01–P

[18] For the FERC–60, the $57.07/hour figure is based on the average cost (wages plus benefits) of a management analyst (Occupation Code 13–1111) and an accountant (Occupation Code 13–2011) as posted on the Bureau of Labor Statistics (BLS) Web site (*http://www/bls.gov/oes/current/naics2_22.htm*).

[19] For the FERC–61 the $37.50 hourly cost figure comes from the cost of a records clerk (Occupation Code 43–4199) as posted on the BLS Web site (*http://www/bls.gov/oes/current/naics2_22.htm*).

[20] For the FERC–555A, the $30.71/hour figure is based on the cost (wages plus benefits) of a file clerk (Occupation Code 43–4071) as posted on the BLS Web site (*http://www/bls.gov/oes/current/naics2_22.htm*). The estimates use the $30.71/hour (rather than the rounded $31/hour provided in the 60-day Notice.

[21] Internal analysis assumes 50% electronic and 50% paper storage

[22] Per entity; the Commission bases this figure on the estimated cost to service and to store 1 GB of data (based on the aggregated cost of an advanced data protection server).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP16–73–000]

Port Barre Investments, LLC (d/b/a Bobcat Gas Storage); Notice of Application

Take notice that on February 12, 2016, Port Barre Investments, L.L.C. (d/b/a Bobcat Gas Storage) (Bobcat), 5400 Westheimer Court, Houston, Texas 77056–5310, filed an application, pursuant to section 7(c) of the Natural Gas Act and Part 157 of the Commission's regulations for an amendment to a Certificate of Public Convenience and Necessity issued to Bobcat on March 19, 2009 in Docket No. CP09–19–000, as amended by Commission orders on March 31, 2010 in Docket No. CP10–30–000, and on April 8, 2011 in Docket No. CP11–124–000. The March 19 Order authorized Bobcat to construct, own, operate, and maintain three additional natural gas storage facilities (Cavern Nos. 3, 4, and 5) at the salt dome in St. Landry Parish, Louisiana. With this application, Bobcat is seeking authorization to amend its certificate to reflect a change in the base gas capacity for Cavern Well No. 4 from 2.5 billion cubic feet (Bcf) to 3.5 Bcf, and a change in total gas capacity for Cavern Well No. 4 from 12.4 Bcf to 13.4 Bcf, all as more fully set forth in the application which is on file with the Commission and open to public inspection. No changes are proposed by Bobcat to the certificated working gas capacity for any of the caverns.

Any questions regarding this application should be directed to Lisa A. Connolly, General Manager, Rates and Certificates, Bobcat Gas Storage, P.O. Box 1642, Houston, Texas 77251–1642, or by calling (713) 627–4102 (telephone) or by email at *laconnolly@spectraenergy.com.*

Pursuant to Section 157.9 of the Commission's rules, 18 CFR. 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list

maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 5 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: March 21, 2016.

Dated: February 24, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–04954 Filed 3–4–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP02–31–000; CP07–457–000; CP06–76–000]

Stephen Kohlhase, v. Iroquois Gas Transmission System, L.P., Algonquin Gas Transmission, LLC; Notice of Complaint

Take notice that on February 12, 2016, pursuant to section 5 of the Natural Gas Act (NGA) [1] and section 385.206 of the Commission's Rules of Practice and Procedure,[2] Stephen Kohlhase (Complainant) filed a formal complaint against Iroquois Gas Transmission System, L.P. and Algonquin Gas Transmission (collectively, Respondents) alleging that a 2009 modification of the Brookfield Compressor Station in Brookfield, Connecticut, and related pipeline infrastructure, caused an increase in low-frequency noise and vibration in violation of the Commission's regulations.[3]

The complainant certifies that copies of the complaint were served on the contacts for the Respondents as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure.[4] Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondents' answer, motions to intervene, and protests must be served on the Complainant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on March 7, 2016.

Dated: February 24, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–04952 Filed 3–4–16; 8:45 am]

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[1] 15 U.S.C. 717d (2012).

[2] 18 CFR 385.206 (2015).

[3] The Complainant cites the noise quality specifications in sections 380.12(k)(4)(v)(A) and (B) of the Commission's regulations.

[4] 18 CFR 385.211 and 385.214 (2015).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC16–82–000.

Applicants: Lakewood Cogeneration, LP, Essential Power Rock Springs, LLC, Essential Power OPP, LLC, Essential Power Newington, LLC, Essential Power Massachusetts, LLC, Essential Power, LLC, Nautilus Generation, LLC.

Description: Application for Authorization for Disposition of Jurisdictional Facilities and Request for Expedited Action of Essential Power, LLC, et. al.

Filed Date: 2/29/16.

Accession Number: 20160229–5425.

Comments Due: 5 p.m. ET 3/21/16.

Docket Numbers: EC16–83–000.

Applicants: High Lonesome Mesa Wind Holdings, LLC, High Lonesome Holdings, LLC.

Description: Application for Authorization under Section 203 of the Federal Power Act of High Lonesome Holdings, LLC, et. al.

Filed Date: 2/29/16.

Accession Number: 20160229–5457.
Comments Due: 5 p.m. ET 3/21/16.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG16–61–000.
Applicants: Black Hills Colorado IPP, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Black Hills Colorado IPP, LLC.
Filed Date: 2/29/16.
Accession Number: 20160229–5420.
Comments Due: 5 p.m. ET 3/21/16.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER15–861–008.
Applicants: California Independent System Operator Corporation.
Description: Compliance filing: 2016–02–29 Petition for Extension of Waiver Period (ABC) to be effective N/A.
Filed Date: 2/29/16.
Accession Number: 20160229–5385.
Comments Due: 5 p.m. ET 3/7/16.

Docket Numbers: ER16–469–001.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Compliance filing: 2016–03–01_Order 1000 CTDS Variance Analysis Compliance Filing to be effective 2/3/2016.
Filed Date: 3/1/16.
Accession Number: 20160301–5239.
Comments Due: 5 p.m. ET 3/22/16.

Docket Numbers: ER16–551–001.
Applicants: ISO New England Inc.
Description: Tariff Amendment: Response to 2/12/16 Letter Regarding FCM Resource Retirement Reforms to be effective 3/1/2016.
Filed Date: 2/29/16.
Accession Number: 20160229–5374.
Comments Due: 5 p.m. ET 3/14/16.

Docket Numbers: ER16–1023–000.
Applicants: ISO New England Inc., NSTAR Electric Company, The Connecticut Light and Power Company, Public Service Company of New Hampshire, Western Massachusetts Electric Company.
Description: Informational Filing of Eversource Energy Service Company.
Filed Date: 2/29/16.
Accession Number: 20160229–5193.
Comments Due: 5 p.m. ET 3/21/16.

Docket Numbers: ER16–1023–001.
Applicants: ISO New England Inc., NSTAR Electric Company, The Connecticut Light and Power Company, Public Service Company of New Hampshire, Western Massachusetts Electric Company.
Description: Tariff Amendment: Eversource Energy, ER16–1023–000, Filing to Substitute Partial Tariff Record to be effective 6/1/2016.
Filed Date: 3/1/16.
Accession Number: 20160301–5226.
Comments Due: 5 p.m. ET 3/22/16.

Docket Numbers: ER16–1037–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: Hold Harmless for Manual Exclusion of Operating Reserve to be effective 5/1/2016.
Filed Date: 2/29/16.
Accession Number: 20160229–5378.
Comments Due: 5 p.m. ET 3/21/16.

Docket Numbers: ER16–1038–000.
Applicants: Entergy Louisiana, LLC.
Description: § 205(d) Rate Filing: ELL–SRMPA 8th Extension of Interim Agreement to be effective 3/1/2016.
Filed Date: 2/29/16.
Accession Number: 20160229–5381.
Comments Due: 5 p.m. ET 3/21/16.

Docket Numbers: ER16–1039–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2016–02–29 Day Ahead Market Extension Filing to be effective 4/29/2016.
Filed Date: 2/29/16.
Accession Number: 20160229–5384.
Comments Due: 5 p.m. ET 3/21/16.

Docket Numbers: ER16–1040–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: Cost Eligibility for Day-Ahead Market and RUC Make Whole Payments to be effective 5/1/2016.
Filed Date: 3/1/16.
Accession Number: 20160301–5000.
Comments Due: 5 p.m. ET 3/22/16.

Docket Numbers: ER16–1041–000.
Applicants: ISO New England Inc.
Description: ISO New England Inc. Forward Capacity Auction Results 10 Filing.
Filed Date: 02/29/16.
Accession Number: 20160229–5407.
Comments Due: 5 p.m. ET 04/14/16.

Docket Numbers: ER16–1043–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: Relax Minimum Run Time for Self-Committed Resources to be effective 5/1/2016.
Filed Date: 3/1/16.
Accession Number: 20160301–5177.
Comments Due: 5 p.m. ET 3/22/16.

Docket Numbers: ER16–1044–000.
Applicants: Duke Energy Indiana, LLC.
Description: § 205(d) Rate Filing: 2016 Annual Reconciliation Filing RS 253 to be effective 7/1/2015.
Filed Date: 3/1/16.
Accession Number: 20160301–5194.
Comments Due: 5 p.m. ET 3/22/16.

Docket Numbers: ER16–1045–000.
Applicants: Duke Energy Florida, LLC, Duke Energy Progress, LLC, Duke Energy Carolinas, LLC.
Description: § 205(d) Rate Filing: Joint OATT Amendment—SGIA, LGIA and Attachment T to be effective 5/1/2016.
Filed Date: 3/1/16.
Accession Number: 20160301–5240.
Comments Due: 5 p.m. ET 3/22/16.

Docket Numbers: ER16–1046–000.
Applicants: Huntley Power LLC.
Description: Tariff Cancellation: Notice of Cancellation to be effective 3/2/2016.
Filed Date: 3/1/16.
Accession Number: 20160301–5329.
Comments Due: 5 p.m. ET 3/22/16.

Docket Numbers: ER16–1047–000.
Applicants: Dry Lots Wind LLC.
Description: Petition of Dry Lots Wind LLC for Expedited Waiver of the Regulatory Milestone Deadline Under the New York Independent System Operator, Inc. OATT and Request For Shortened Notice Period.
Filed Date: 3/1/16.
Accession Number: 20160301–5358.
Comments Due: 5 p.m. ET 3/15/16.

Docket Numbers: ER16–1049–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 2794 MISO Non-Firm PTP Cancellation to be effective 1/29/2014.
Filed Date: 3/1/16.
Accession Number: 20160301–5368.
Comments Due: 5 p.m. ET 3/22/16.

Docket Numbers: ER16–1050–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: Settlement of Costs Following Substitution of Operating Reserve Products to be effective 5/1/2016.
Filed Date: 3/1/16.
Accession Number: 20160301–5378.
Comments Due: 5 p.m. ET 3/22/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing

requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 1, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–04951 Filed 3–4–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3820–010]

General Electric Company, Aclara Meters LLC; Notice of Application for Transfer of License and Soliciting Comments, Motions To Intervene, and Protests

On February 9, 2016, General Electric Company (transferor) and Aclara Meters LLC (transferee) filed an application for transfer of license of the Somersworth Project No. 3820. The project is located on the Salmon Falls River in Stafford County, New Hampshire and York County, Maine. The project does not occupy federal lands.

The applicants seek Commission approval to transfer the license for the Somersworth Project from the transferor to the transferee.

Applicant Contact: For transferor: Ms. Lisa Price, General Manager, Business Development, GE Energy Management, 401 Merritt 7—PH, Norwalk, CT 06851–1000, Phone: 203–956–4670, Email: *lisa.price@ge.com* and John H. Grady, Jones Day, 1420 Peachtree Street NE., Suite 800, Atlanta, GA 30309, Phone: 404–581–8316, Email: *jhgrady@JonesDay.com.* For transferee: Mr. William ''Keith'' Beyea, Facilities Manager, Aclara Meters LLC, 130 Main Street, Somersworth, NH 03878, Phone: 603–749–8545, Email: *William.beyea@ge.com* and Mr. M. Curtis Whittaker, Rath, Young and Pignatelli, P.C., One Capital Plaza, Concord, NH 03301, Phone: 603–226–2600, Email: *mcw@rathlaw.com.*

FERC Contact: Patricia W. Gillis, (202) 502–8735, *patricia.gillis@ferc.gov.*

Deadline for filing comments, motions to intervene, and protests: 30 days from the date that the Commission issues this notice. The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–3820–010.

Dated: February 24, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–04958 Filed 3–4–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC16–77–000.
Applicants: BlackRock, Inc.
Description: Request for Reauthorization, Extension and Modification of Blanket Authorizations Under Section 203 of the Federal Power Act and Request for Expedited Consideration of BlackRock, Inc.
Filed Date: 2/23/16.
Accession Number: 20160223–5115.
Comments Due: 5 p.m. ET 3/15/16.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER16–990–000.
Applicants: Avista Corporation.
Description: § 205(d) Rate Filing: Avista Corp NITSA Low Voltage Facilities Chgs to be effective 4/1/2016.
Filed Date: 2/23/16.
Accession Number: 20160223–5074.
Comments Due: 5 p.m. ET 3/15/16.

Docket Numbers: ER16–991–000.
Applicants: Desert Stateline LLC.
Description: Tariff Cancellation: Administrative Cancellation of Tariff Record to be effective 2/23/2016.
Filed Date: 2/23/16.
Accession Number: 20160223–5144.
Comments Due: 5 p.m. ET 3/15/16.

Docket Numbers: ER16–992–000.
Applicants: Desert Stateline LLC.
Description: § 205(d) Rate Filing: Administrative Resubmission of Market Based Rate Tariff to be effective 11/1/2015.
Filed Date: 2/23/16.
Accession Number: 20160223–5150.
Comments Due: 5 p.m. ET 3/15/16.

Take notice that the Commission received the following PURPA 210(m)(3) filings:

Docket Numbers: QM16–1–000.
Applicants: Nebraska Public Power District.
Description: Supplement to February 12, 2016 Application of Nebraska Public Power District to Terminate Mandatory Purchase Obligation Under the Public Utility Regulatory Policies Act.
Filed Date: 2/22/16.
Accession Number: 20160222–5262.
Comments Due: 5 p.m. ET 3/21/16.

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 24, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–04949 Filed 3–4–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL16–42–000]

Prairie Wind Transmission, LLC; Notice of Request for Waiver

Take notice that on February 25, 2016, Westar Energy, Inc., on behalf of Prairie Wind Transmission, LLC, submitted a request for a Form No. 715 filing waiver.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to

the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on March 11, 2016.

Dated: March 1, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–04959 Filed 3–4–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP16–74–000]

Columbia Gas Transmission, LLC; Notice of Request Under Blanket Authorization

Take notice that on February 16, 2016, Columbia Gas Transmission, LLC (Columbia), 5151 San Felipe, Suite 2500, Houston, Texas 77056, filed in Docket No. CP16–74–000 a prior notice request pursuant to sections 157.205 and 157.208 of the Commission's regulations under the Natural Gas Act (NGA), as amended, requesting authorization to increase the maximum allowable operating pressure (MAOP) on its existing PM–117 pipeline, replace a segment of Line P–240, and upgrade appurtenant facilities. Specifically, Columbia proposes to: (i) Increase the MAOP of Line PM–117 from 295 pounds per square inch gauge (psig) to 360 psig in Johnson and Martin Counties, Kentucky; (ii) replace an 8-inch-diameter bridle setting on Line P–240 with a 10-inch-diameter bridle and approximately 200 feet of 8-inch-diameter pipeline with 10-inch-diameter pipeline in Lawrence County, Kentucky; and (iii) install appurtenances. Columbia states that the proposed activities will allow it to deliver 20,000 dekatherms per day of firm transportation service to its shipper. Columbia estimates the cost of the proposed project to be approximately $2.7 million, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Any questions concerning this application may be directed to Tyler Brown, Senior Counsel, Columbia Gas Transmission, LLC, 5151 San Felipe, Suite 2500, Houston, Texas 77056, by telephone at (713) 386–3797.

Any person or the Commission's staff may, within 60 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to section 157.205 of the regulations under the NGA (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenter's will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenter's will not be required to serve copies of filed documents on all other parties. However, the non-party commentary, will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 7 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street NE., Washington, DC 20426.

Dated: February 24, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–04955 Filed 3–4–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Commission Staff Attendance

The Federal Energy Regulatory Commission (Commission) hereby gives notice that members of the Commission's staff may attend the following meetings related to the transmission planning activities of the New York Independent System Operator, Inc.

The New York Independent System Operator, Inc. Joint Electric System Planning Working Group and Transmission Planning Advisory Subcommittee Meeting

March 7, 2016, 10:00 a.m.–4:00 p.m. (EST)

The above-referenced meeting will be via web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: *http://www.nyiso.com/public/markets_operations/services/planning/index.jsp.*

The New York Independent System Operator, Inc. Business Issues Committee Meeting

March 16, 2016, 10:00 a.m.–4:00 p.m. (EST)

The above-referenced meeting will be via web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: *http://www.nyiso.com/public/markets_operations/committees/meeting_materials/index.jsp?com=bic.*

The New York Independent System Operator, Inc. Operating Committee Meeting

March 17, 2016, 10:00 a.m.–4:00 p.m. (EST)

The above-referenced meeting will be via web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: *http://www.nyiso.com/public/markets_operations/committees/meeting_materials/index.jsp?com=oc.*

The New York Independent System Operator, Inc. Electric System Planning Working Group Meeting

March 22, 2016, 10:00 a.m.–4:00 p.m. (EST)

The above-referenced meeting will be via web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: *http://www.nyiso.com/public/markets_operations/services/planning/index.jsp.*

The New York Independent System Operator, Inc. Management Committee Meeting

March 30, 2016, 10:00 a.m.–4:00 p.m. (EST)

The above-referenced meeting will be via web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: *http://www.nyiso.com/public/markets_operations/committees/meeting_materials/index.jsp?com=mc.*

The discussions at the meeting described above may address matters at issue in the following proceedings:

New York Independent System Operator, Inc., Docket No. ER13–102.
New York Independent System Operator, Inc., Docket No. ER15–2059.
New York Independent System Operator, Inc., Docket No. ER16–120.
New York Independent System Operator, Inc., Docket No. ER13–1942.
New York Transco, LLC, Docket No. ER15–572.
New York Independent System Operator, Inc., Docket No. ER16–966.

For more information, contact James Eason, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (202) 502–8622 or *James.Eason@ferc.gov.*

Dated: March 1, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–04960 Filed 3–4–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 516–491]

South Carolina Electric & Gas Co.; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-project use of project lands and waters.

b. *Project No:* 516–491.

c. *Date Filed:* February 8, 2016, as supplemented February 25, 2016.

d. *Applicant:* South Carolina Electric & Gas Co.

e. *Name of Project:* Saluda Hydroelectric Project.

f. *Location:* Saluda River in Lexington, Newberry, Richland, and Saluda counties, South Carolina.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. Tommy Boozer, Manager, Lake Management Programs, SCE&G, 6248 Bush River Road, Columbia, SC 29212, (803) 217–9007.

i. *FERC Contact:* Mr. Kevin Anderson, (202) 502–6465, *kevin.anderson@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protests:* April 1, 2016.

The Commission strongly encourages electronic filing. Please file motions to intervene, protests, comments, recommendations, preliminary terms and conditions, and preliminary fishway prescriptions using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. The first page of any filing should include docket number P–516–491.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* The licensee requests authorization to permit Cherokee Shores Development to modify their existing marina facility by replacing sixteen double boat slips with 32 single boat slips, each equipped with a boat lift. Each new boat slip would be two feet wider and four feet longer than the existing slips. The dock would be 64 feet longer and fixed, via pilings, to the lake bed. No dredging would take place. The licensee states the modified marina facility would be consistent with its shoreline management guidelines for private marinas.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/*

esubscription.asp to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: March 1, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–04961 Filed 3–4–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

National Nuclear Security Administration

Defense Programs Advisory Committee

AGENCY: National Nuclear Security Administration, Office of Defense Programs, Department of Energy.

ACTION: Notice of closed meeting.

SUMMARY: This notice announces a closed meeting of the Defense Programs Advisory Committee (DPAC). The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of meetings be announced in the **Federal Register**. Due to national security considerations, under section 10(d) of the Act and 5 U.S.C. 552b(c), the meeting will be closed to the public and matters to be discussed are exempt from public disclosure under Executive Order 13526 and the Atomic Energy Act of 1954, 42 U.S.C. 2161 and 2162, as amended.

DATES: March 18, 2016, 8:30 a.m. to 5:00 p.m.

ADDRESSES: U.S. Department of Energy, 1000 Independence Ave. SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Loretta Martin, Office of RDT&E (NA–113), National Nuclear Security Administration, U.S. Department of Energy, 1000 Independence Ave. SW., Washington, DC 20585, (202) 586–7996.

SUPPLEMENTARY INFORMATION:

Background: The DPAC provides advice and recommendations to the Deputy Administrator for Defense Programs on the stewardship and maintenance of the Nation's nuclear deterrent.

Purpose of the Meeting: The purpose of this meeting of the DPAC is to finalize the Committee report to be provided to the National Nuclear Security Administration in response to its charge and to have initial discussion of the next charges to the Committee.

Type of Meeting: In the interest of national security, the meeting will be closed to the public. The Federal Advisory Committee Act, 5 U.S.C. App. 2, section 10(d), and the Federal Advisory Committee Management Regulation, 41 CFR 102–3.155, incorporate by reference the Government in the Sunshine Act, 5 U.S.C. 552b, which, at 552b(c)(1) and (c)(3) permits closure of meetings where restricted data or other classified matters will be discussed. Such data and matters will be discussed at this meeting.

Tentative Agenda: Welcome; reading of final draft of report; discussion of report, as necessary; (tentative) acceptance of report; discussion of next charges; conclusion.

Public Participation: There will be no public participation in this closed meeting. Those wishing to provide written comments or statements to the Committee are invited to send them to Loretta Martin at the address listed above.

Minutes: The minutes of the meeting will not be available.

Issued in Washington, DC on March 2, 2016.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2016–04975 Filed 3–4–16; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2008–0844; FRL–9942–69]

Imidacloprid Registration Review; Draft Pollinator Ecological Risk Assessment; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; extension of comment period.

SUMMARY: EPA issued a notice in the **Federal Register** of January 15, 2016, opening a comment period for a draft pollinator-only ecological risk assessment for the registration review of imidacloprid. This document extends the comment period for 30 days, from March 15, 2016 to April 14, 2016. This comment period is being extended in response to a number of extension requests from various stakeholders.

DATES: Comments, identified by docket identification (ID) number EPA–HQ–OPP–2008–0844, must be received on or before April 14, 2016.

ADDRESSES: Follow the detailed instructions provided under **ADDRESSES** in the **Federal Register** document of January 15, 2016 (81 FR 2212) (FRL–9940–82).

FOR FURTHER INFORMATION CONTACT: Kelly Ballard, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–8126; email address: *ballard.kelly@epa.gov.*

SUPPLEMENTARY INFORMATION:

This document extends the public comment period established in the

Federal Register document of January 15, 2016 (81 FR 2212) (FRL–9940–82). In that document, EPA opened a comment period for a draft pollinator-only ecological risk assessment for the registration review of imidacloprid. EPA is hereby extending the comment period, which was set to end on March 15, 2016, to April 14, 2016.

To submit comments, or access the docket, please follow the detailed instructions provided under **ADDRESSES** in the **Federal Register** document of January 15, 2016. If you have questions, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

Authority: 7 U.S.C. 136 *et seq.*

Dated: February 29, 2016.

Yu-Ting Guilaran,

Director, Pesticide Re-Evaluation, Office of Pesticide Programs.

[FR Doc. 2016–05033 Filed 3–4–16; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL TRADE COMMISSION

[File No. 151 0198]

Hikma Pharmaceuticals PLC; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent orders—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before March 29, 2016.

ADDRESSES: Interested parties may file a comment at *https://ftcpublic.commentworks.com/ftc/hikmaroxaneconsent* online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''In the Matter of Hikma Pharmaceuticals PLC,—Consent Agreement; File No. 151–0198'' on your comment and file your comment online at *https://ftcpublic.commentworks.com/ftc/hikmaroxaneconsent* by following the instructions on the Web-based form. If you prefer to file your comment on paper, write ''In the Matter of Hikma Pharmaceuticals PLC,—Consent Agreement; File No. 151–0198'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Jacqueline Mendel (202–326–2603), Bureau of Competition, 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for February 26, 2016), on the World Wide Web, at *http://www.ftc.gov/os/actions.shtm.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before March 29, 2016. Write ''In the Matter of Hikma Pharmaceuticals PLC,—Consent Agreement; File No. 151–0198'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which . . . is privileged or confidential,'' as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[1] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/hikmaroxaneconsent* by following the instructions on the Web-based form. If this Notice appears at *http://www.regulations.gov/#!home,* you also may file a comment through that Web site.

If you file your comment on paper, write ''In the Matter of Hikma Pharmaceuticals PLC,—Consent Agreement; File No. 151–0198'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before March 29, 2016. You can find

[1] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm*.

Analysis of Agreement Containing Consent Orders To Aid Public Comment

The Federal Trade Commission ''Commission'') has accepted, subject to final approval, an Agreement Containing Consent Orders (''Consent Agreement'') from Hikma Pharmaceuticals PLC (''Hikma'') that is designed to remedy the anticompetitive effects resulting from Hikma's acquisition of Roxane Laboratories, Inc. and Boehringer Ingelheim Roxane, Inc. (jointly, ''Roxane'') from Boehringer Ingelheim Corporation (''BI''). Under the terms of the proposed Consent Agreement, Hikma must divest all of its rights and assets related to 5 mg, 10 mg, and 20 mg generic prednisone tablets and to generic lithium carbonate capsules to Renaissance Acquisition Holdings LLC (''Renaissance''), and to divest all marketing rights and ownership interests in generic flecainide tablets to Unimark Remedies Ltd (''Unimark'').

The Commission has placed the proposed Consent Agreement on the public record for thirty days for receipt of comments from interested persons. Comments received during this period will become part of the public record. After thirty days, the Commission will again evaluate the proposed Consent Agreement, along with the comments received, to make a final decision as to whether it should withdraw from the proposed consent Agreement or make final the Decision and Order (''Order'').

Pursuant to a Stock Purchase Agreement dated July 28, 2015, Hikma proposed to acquire 100% of the issued and outstanding shares of Roxane for approximately $2.65 billion. On February 10, 2016, the purchase price was reduced to approximately $2 billion (the ''Proposed Acquisition''). The Commission alleges in its Complaint that the Proposed Acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, by lessening current competition in the markets for 5 mg, 10 mg, and 20 mg generic prednisone tablets and in the generic lithium carbonate capsules market, and future competition in the market for generic flecainide tablets in the United States. The proposed Consent Agreement will remedy the alleged violations by preserving the competition that the Proposed Acquisition would otherwise eliminate.

I. The Products and Structure of the Markets

The Proposed Acquisition would reduce the number of current suppliers in the markets for 5 mg, 10 mg, and 20 mg generic prednisone tablets and for generic lithium carbonate capsules, and reduce the number of future suppliers in the market for generic flecainide tablets.

Prednisone is a corticosteroid that prevents the release of substances in the body that cause inflammation. It is used to treat arthritis, allergies, and other conditions. Prednisone is also prescribed as an immunosuppressant medication. Generic prednisone is available in six tablet strengths: 1 mg, 2.5 mg, 5 mg, 10 mg, 20 mg, and 50 mg. Hikma and Roxane both market three of the six tablet strengths: 5 mg, 10 mg, and 20 mg. In addition to Hikma and Roxane, Endo International plc, Allergan, Inc., and Jubilant Cadista Pharmaceuticals, Inc. also offer 5 mg, 10 mg, and 20 mg generic prednisone tablets in the United States.

Lithium carbonate capsules are prescribed for the treatment of manic episodes of bipolar disorder and for the maintenance treatment of bipolar disorder. Lithium therapy reduces the frequency of manic episodes and diminishes the intensity of episodes when they occur. In addition to Hikma and Roxane, two other firms currently supply generic lithium carbonate capsules in the United States: Glenmark Pharmaceuticals Ltd. and Camber Pharmaceuticals Inc.

Flecainide acetate is an antiarrhythmic drug used to prevent and treat abnormally fast heart rhythms. Four firms currently market generic flecainide tablets: Roxane, Amneal Pharmaceuticals, ANI Pharmaceuticals, Inc., and Citron Pharma. Hikma owns the U.S. marketing rights to a generic flecainide in development at Unimark Remedies Ltd. Hikma is one of few suppliers that can enter the United States market in the near future.

II. Entry

Entry into the relevant markets would not be timely, likely, or sufficient in magnitude, character, and scope to deter or counteract the anticompetitive effects of the Proposed Acquisition. The combination of drug development times and regulatory requirements, including approval by the United States Food and Drug Administration (''FDA''), is costly and lengthy.

III. Effects

The Proposed Acquisition likely would cause significant anticompetitive harm to consumers by eliminating current competition between Hikma and Roxane in the markets for 5 mg, 10 mg, and 20 mg generic prednisone tablets and in the generic lithium carbonate capsule market. Market participants characterize both generic prednisone tablets and generic lithium carbonate capsules as commodity products, and prices are typically inversely correlated with the number of competitors in each market. As the number of suppliers offering a therapeutically equivalent drug increases, the price for that drug generally decreases due to the direct competition between the existing suppliers and each additional supplier. The Proposed Acquisition would combine two of five companies offering the 5 mg, 10 mg, and 20 mg strengths of generic prednisone tablets, and two of four firms offering generic lithium carbonate capsules, likely leading consumers to pay higher prices.

In addition, the Proposed Acquisition likely would harm consumers by eliminating future generic competition that would otherwise have occurred in the generic flecainide market if Hikma and Roxane remained independent. The Proposed Acquisition would likely harm competition by eliminating an additional independent entrant in the market for generic flecainide. Customers view the price of this pharmaceutical product as less competitive than it would be in a market with more participants, including Hikma. Thus, absent a remedy, the Proposed Acquisition would likely cause U.S. consumers to pay significantly higher prices for generic flecainide tablets.

IV. The Consent Agreement

The proposed Consent Agreement effectively remedies the competitive concerns raised by the acquisition by requiring Hikma to divest all its rights and assets relating to 5 mg, 10 mg, and 20 mg generic prednisone and those relating to generic lithium carbonate capsules to Renaissance. Established in 2010 and based in Newtown, Pennsylvania, Renaissance is a privately held pharmaceutical company that manufactures and markets both generic and branded prescription drugs in the United States. In addition, the proposed Consent Agreement requires Hikma to return its rights to market generic flecainide tablets in the United States to Unimark, along with its equity interest in Unimark.

The Commission's goal in evaluating possible purchasers of divested assets is to maintain the competitive environment that existed prior to the proposed acquisition. If the Commission determines that Renaissance is not an acceptable acquirer, or that the manner

of the divestitures is not acceptable, the proposed Order requires Hikma to unwind the sale of rights to Renaissance and then divest the products to a Commission-approved acquirer within six months of the date the Order becomes final. The proposed Order further allows the Commission to appoint a trustee should the parties fail to divest the products as required.

The proposed Consent Agreement and Order contain several provisions to help ensure that the divestitures are successful. The proposed Order requires that Hikma supply Renaissance with 5 mg, 10 mg, and 20 mg generic prednisone tablets and with generic lithium carbonate capsules for eighteen months while Hikma transfers the manufacturing technology to Renaissance's facility. The proposed Order also requires Hikma to provide a back-up supply of active pharmaceutical ingredient for generic prednisone tablets should the need for it arise. To ensure the success of these divestitures, the proposed Order requires Hikma to provide transitional services to assist Renaissance in establishing its manufacturing capabilities and securing all of the necessary FDA approvals. The transitional services include technical assistance to manufacture the product in substantially the same manner and quality employed or achieved by Hikma, and advice and training from knowledgeable employees of the parties. In addition, to ensure that Hikma complies with the terms of the Consent Agreement, the Commission has appointed Owen Richards of Quantic Regulatory Services, LLC as the Interim Monitor.

To remedy competitive concerns raised by the acquisition in the market for generic flecainide tablets, the proposed Order requires Hikma to divest its approximately 23% ownership interest in Unimark and to return to Unimark all rights it has to commercialize generic flecainide tablets in the United States. Unimark has selected another firm, Bion Pharma, of Princeton, New Jersey, to market generic flecainide tablets in the United States upon the product's approval by the FDA.

The purpose of this analysis is to facilitate public comment on the proposed Consent Agreement, and it is not intended to constitute an official interpretation of the proposed Order or to modify its terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2016–04884 Filed 3–4–16; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0077; Docket 2016–0053; Sequence 13]

Information Collection; Quality Assurance Requirements

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, 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 quality assurance requirements.

DATES: Submit comments on or before May 6, 2016.

ADDRESSES: Submit comments identified by Information Collection 9000–0077, Quality Assurance Requirements, 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 9000–0077, Quality Assurance Requirements''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 9000–0077, Quality Assurance Requirements'' on your attached document.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Flowers/IC 9000–0077, Quality Assurance Requirements.

Instructions: Please submit comments only and cite Information Collection 9000–0077, Quality Assurance Requirements, in all correspondence related to this collection. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Mr. Curtis E. Glover, Sr., Procurement Analyst, Contract Policy Division, at 202–501–1448 or email *curtis.glover@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

Supplies and services acquired under Government contracts must conform to the contract's quality and quantity requirements. FAR Part 46 prescribes inspection, acceptance, warranty, and other measures associated with quality requirements. Standard clauses related to inspection require the contractor to provide and maintain an inspection system that is acceptable to the Government; gives the Government the right to make inspections and test while work is in process; and requires the contractor to keep complete, and make available to the Government, records of its inspection work.

B. Annual Reporting Burden

Respondents: 138,292.

Responses Per Respondent: 1.03226.

Total Responses: 142,753.

Hours Per Response: .83511.

Total Burden hours: 119,214.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 9000–0077, Quality Assurance Requirements, in all correspondence.

Dated: March 2, 2016.

Lorin S. Curit,

Director, Federal Acquisition Policy, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2016–04941 Filed 3–4–16; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0102; Docket 2016–0053; Sequence 20]

Information Collection; Prompt Payment

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension to a previously approved information collection requirement concerning prompt payment.

DATES: Submit comments on or before May 6, 2016.

ADDRESSES: Submit comments identified by Information Collection 9000–0102, Prompt Payment, 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 9000–0102, Prompt Payment''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 9000–0102, Prompt Payment'' on your attached document.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Flowers/IC 9000–0102, Prompt Payment.

Instructions: Please submit comments only and cite Information Collection 9000–0102, Prompt Payment, 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. Kathlyn Hopkins, Procurement Analyst, Office of Acquisition Policy, GSA 202–969–7226 or email *kathlyn.hopkins@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

Part 32 of the FAR and the clause at FAR 52.232–5, Payments Under Fixed-Price Construction Contracts, require that contractors under fixed-price construction contracts certify, for every progress payment request, that payments to subcontractors/suppliers have been made from previous payments received under the contract and timely payments will be made from the proceeds of the payment covered by the certification, and that this payment request does not include any amount which the contractor intends to withhold from a subcontractor/supplier. Part 32 of the FAR and the clause at 52.232–27, Prompt Payment for Construction Contracts, further require that contractors on construction contracts:

(a) Notify subcontractors/suppliers of any amounts to be withheld and furnish a copy of the notification to the contracting officer;

(b) Pay interest to subcontractors/suppliers if payment is not made by 7 days after receipt of payment from the Government, or within 7 days after correction of previously identified deficiencies;

(c) Pay interest to the Government if amounts are withheld from subcontractors/suppliers after the Government has paid the contractor the amounts subsequently withheld, or if the Government has inadvertently paid the contractor for nonconforming performance; and

(d) Include a payment clause in each subcontract which obligates the contractor to pay the subcontractor for satisfactory performance under its subcontract no later than seven days after such amounts are paid to the contractor, include an interest penalty clause which obligates the contractor to pay the subcontractor an interest penalty if payments are not made in a timely manner, and include a clause requiring each subcontractor to include these clauses in each of its subcontractors and to require each of its subcontractors to include similar clauses in their subcontracts.

These requirements are imposed by Public Law 100–496, the Prompt Payment Act Amendments of 1988.

Contracting officers will be notified if the contractor withholds amounts from subcontractors/suppliers after the Government has already paid the contractor the amounts withheld. The contracting officer must then charge the contractor interest on the amounts withheld from subcontractors/suppliers. Federal agencies could not comply with the requirements of the law if this information were not collected.

B. Annual Reporting Burden

Respondents: 2,679.

Responses per Respondent: 18.27.

Total Responses: 48,950.

Hours per Response: .11.

Total Burden Hours: 5,384.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 9000–0102, Prompt Payment, in all correspondence.

Dated: March 2, 2016.

Lorin S. Curit,

Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2016–04942 Filed 3–4–16; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0071; Docket 2015–0055; Sequence 28]

Submission for OMB Review; Price Redetermination

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension of 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 Price Redetermination. A notice was published in the **Federal Register** at 80 FR 81533 on December 30, 2015. No comments were received.

DATES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Room 10236, NEOB, Washington, DC 20503. Additionally submit a copy to GSA by any of the following methods:

• *Regulations.gov: http://www.regulations.gov.*

Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 9000–0071, Price Redetermination''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 9000–0071, Price Redetermination'' on your attached document.

• *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Flowers/IC 9000–0071, Price Redetermination.

Instructions: Please submit comments only and cite Information Collection 9000–0071, Price Redetermination, 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 Governmentwide Acquisition Policy, GSA, 202–501–1448 or email *curtis.glover@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

FAR 16.205, Fixed-price contracts with prospective price redetermination, provides for firm fixed prices for an initial period of the contract with prospective redetermination at stated times during performance. FAR 16.206, Fixed price contracts with retroactive price redetermination, provides for a fixed ceiling price and retroactive price redetermination within the ceiling after completion of the contract. In order for the amounts of price adjustments to be determined, the firms performing under these contracts must provide information to the Government regarding their expenditures and anticipated costs.

B. Annual Reporting Burden

Respondents: 139.
Responses per Respondent: 9.
Annual Responses: 1,251.
Hours per Response: 8.
Total Burden Hours: 10,008.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary; whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755.

Please cite OMB Control No. 9000–0071, Price Redetermination, in all correspondence.

Dated: March 2, 2016.

Lorin S. Curit,

Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2016–04943 Filed 3–4–16; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day-16–16RZ; Docket No. CDC–2016–0024]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. This notice invites comment on An Assessment of the State Public Health Actions (''1305'') Program, a study to explore state-level partnerships and synergy among state health departments funded through the State Public Health Actions 1305 cooperative agreement.

DATES: Written comments must be received on or before May 2, 2016.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2016–0024 by any of the following methods:

Federal eRulemaking Portal: Regulation.gov. Follow the instructions for submitting comments.

Mail: Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to Regulations.gov, including any personal information provided. For access to the docket to read background documents or comments received, go to Regulations.gov.

Please note: *All public comment should be submitted through the Federal eRulemaking*

*portal (*Regulations.gov*) or by U.S. mail to the address listed above.*

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact the Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Proposed Project

An Assessment of the State Public Health Actions (''1305'') Program—New—National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Chronic diseases and conditions—such as heart disease, stroke, diabetes, and obesity—are the leading causes of death and disability in the United States, and are major drivers of sickness, disability, and high health care costs (CDC, 2016). Having multiple chronic conditions further increases the risk for these negative health outcomes, while also increasing risk for poor day-to-day functioning. Chronic diseases, as well as multiple chronic diseases, are associated with significant health care costs. In 2010, 86% of all health care spending was attributed to individuals with at least one chronic medical condition, and 71% was associated with care for individuals with multiple chronic conditions (Gerteis et al., 2014).

To address these challenges, the Centers for Disease Control and Prevention (CDC)'s National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP) provides funding for cross-cutting chronic disease programs within state and local health agencies to implement public health programs; conduct public health surveillance; translate research; communicate health prevention messages; and develop and implement tools and resources for state- and local-level stakeholders. In 2013, the NCCDPHP developed a new program funding opportunity to support states in the design and implementation of strategies to reduce complications from multiple chronic diseases and associated risk factors. The funding opportunity was announced as ''*State Public Health Actions to Prevent and Control Diabetes, Heart Disease, Obesity and Associated Risk Factors and Promote School Health,''* CDC–RFA–DP13–1305, and is hereafter referred to as ''State Public Health Actions 1305.'' This new 5-year cooperative agreement supports state health departments in an important transition from funding and implementing four separate categorical areas (*i.e.,* diabetes; heart disease and stroke; nutrition, physical activity, and obesity; and school health) to working collaboratively across categorical areas to plan and implement cross-cutting initiatives. This cross-cutting approach is essential for supporting activities to prevent chronic disease and risk factors—particularly multiple chronic conditions.

State Public Health Actions 1305 addresses six key public health priorities: (1) Uncontrolled hypertension, (2) prevention and control of diabetes, (3) incidence of obesity, (4) increased physical activity and healthy eating by children and adults, (5) increased breastfeeding, and (6) improved management of chronic conditions among students. Strategies implemented under State Public Health Actions 1305 fall into one or more of four chronic disease domains, including (1) Epidemiology and Surveillance, (2) Environmental Approaches to promote health and support and reinforce healthful behaviors, (3) Health Systems Interventions to improve the effective delivery and use of clinical and other preventive services, and (4) Community-Clinical Linkages to support cardiovascular disease and diabetes prevention and control efforts, and the management of chronic diseases.

Through this cooperative agreement, CDC currently provides over $100 million to state health departments in all 50 United States and the District of Columbia. Due to the funding, complexity, coordination, and collaboration needed to implement State Public Health Actions 1305, there are a number of semi-annual and annual reporting requirements related to categorical spending, chronic disease outcomes, efficiencies, and accomplishments. These routine reporting requirements allow CDC to monitor awardee progress towards programmatic goals, but do not collect specific information about the processes that support program implementation plans.

The overall evaluation of State Public Health Actions 1305 examines the efficiency and effectiveness of the program to provide accountability, improve programs, expand practice-based evidence, and demonstrate health outcomes. An important component of assessing efficiency and effectiveness of the program is examining synergy. Synergy occurs when collaboration, coordination, alignment, and a combination of inputs and activities (*i.e.,* the assets and skills of all the participating partners) produce outputs and outcomes greater than those that would have occurred if they had been used separately. The proposed strategies are intentionally aligned to attain greater success in achieving measurable outcomes that speak to the aims of each categorical area and the program as a whole. CDC proposes to conduct an assessment to better understand synergy

within and across State Public Health Actions 1305 funded programs.

The assessment is guided by three process-related research questions and multiple indicators designed to examine changes in processes, organizational structure, and capacity. It will also examine states' ability to implement a coordinated approach across the different chronic disease areas and the four domains; challenges and benefits; and measurable positive outcomes. The research questions include: (1) What changes did States make to create greater synergy?, (2) To what extent were redundancies reduced or eliminated at the State level?, and (3) How has coordination with critical partners changed since the implementation of State Public Health Actions 1305?

CDC plans to administer a web-based survey to health departments receiving funding through the State Public Health Actions 1305 cooperative agreement, including 50 states and the District of Columbia. CDC plans to administer the survey in 2016 (program year 4) and 2018 (program year 5) to explore changes in partnerships and synergy throughout the 5-year cooperative agreement. Surveys will be administered to health department staff directly involved in planning and/or implementation of the State Public Health Actions 1305 program, including principal investigators, chronic disease directors, program evaluators, epidemiologists, and program staff with subject matter expertise in one or more of the four categorical areas. CDC will recruit approximately 8 individuals from each funded program for a total of approximately 408 respondents.

CDC will use survey findings to (1) inform future CDC technical assistance provision to State Public Health Actions 1305 funded programs, and (2) inform future cross-cutting, coordinated funding models. In addition, findings will complement existing routine reporting by gathering information about the specific processes that support program implementation plans. Findings will be disseminated via grantee webinars, grantee annual meetings, reports to CDC leadership, and U.S. Congressional reports.

OMB approval is requested for 2 years. Participation is voluntary and respondents will not receive incentives for participation. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Numberof responses per respondent	Average burden per response (in hr)	Total burden (in hr)
Principal Investigators	Grantee Synergy Survey	51	1	45/60	38
Chronic Disease Directors	Grantee Synergy Survey	51	1	45/60	38
Program Evaluators	Grantee Synergy Survey	51	1	45/60	38
Epidemiologists	Grantee Synergy Survey	51	1	45/60	38
Program Staff with Subject Matter Expertise.	Grantee Synergy Survey	204	1	45/60	153
Total					305

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. 2016–04938 Filed 3–4–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60-Day–16–0987; Docket No. CDC–2016–0023]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. This notice invites comment on the information collection request Qualitative Information Collection on Emerging Diseases among the Foreign-born in the US that enables CDC improve the planning and implementation of disease prevention and control strategies targeting communicable diseases and other emerging health issues among high-risk foreign-born communities in specific and limited geographic areas in the United States where high numbers of those populations live.

DATES: Written comments must be received on or before May 6, 2016.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2016–0023 by any of the following methods:

- *Federal eRulemaking Portal: Regulation.gov.* Follow the instructions for submitting comments.
- *Mail:* Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to Regulations.gov, including any personal information provided. For access to the docket to read background documents or comments received, go to Regulations.gov.

Please note: All public comment should be submitted through the Federal eRulemaking portal (Regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact the Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each

collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Proposed Project

Qualitative Information Collection on Emerging Diseases among the Foreign-born in the U.S. (0920–0987 expires 09/30/2016)—Extension—Division of Global Migration and Quarantine, National Center for Emerging Zoonotic and Infectious Diseases, Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention (CDC), National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Division of Global Migration and Quarantine (DGMQ), requests approval for an extension of the current generic information collection Qualitative Information Collection on Emerging Diseases among the Foreign-born in the U.S.

This qualitative data collection is needed by DGMQ because foreign-born individuals are considered hard-to-reach populations and are often missed by routine information collection systems in the United States. As a consequence, limited information is available about the health status, knowledge, attitudes, health beliefs and practices related to communicable diseases and other emerging health issues (*e.g.,* tuberculosis, parasitic diseases, lead poisoning, and mental health issues) among foreign-born populations in the United States. Foreign-born populations are very diverse in terms of countries of origin, socio-demographic, cultural and linguistic characteristics and geographic destinations in the U.S. Data is especially limited at the local level.

The purpose of the extension is to continue efforts to improve the agency's understanding of the health status, risk factors for disease, and other health outcomes among foreign-born individuals in the United States. Numerous types of data will be collected under the auspices of this generic information collection. These include, but are not limited to, knowledge, attitudes, beliefs, behavioral intentions, practices, behaviors, skills, self-efficacy, and health information needs and sources.

Under the terms of this generic, CDC will employ focus groups and key informant interviews to collect information. Depending on the specific purpose, the information collection may be conducted either in-person, by telephone, on paper, or online. For each generic information collection, CDC will submit to OMB the project summary and information collection tools.

CDC requests a total of 1,025 respondents and 825 burden hours annually. The respondents to these information collections are foreign born individuals in the United States. There is no cost to respondents other than the time required to provide the information requested.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Foreign-born from specific country of birth in the United States.	Screeners for focus groups (assuming 2 screenings for each recruited participant in focus groups) (300 × 2 = 600).	600	1	10/60	100
Foreign-born from specific country of birth in the United States.	Focus Groups (Approximately 30 focus groups/year and 10 participants per focus group).	300	1	2	600
Foreign-born community leaders and staff from organizations serving those communities.	Key informant interviews (Approximately 125 interviews/year).	125	1	1	125
Total					825

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. 2016–04933 Filed 3–4–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–16–0984;Docket No. CDC–2016–0025]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection entitled ''DELTA FOCUS Program Evaluation.'' CDC will use the information collected to improve the national DELTA FOCUS program, and to develop strategy interactions to help the DELTA FOCUS program meet the requirements of the Funding Opportunity Announcement.

DATES: Written comments must be received on or before May 6, 2016.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2016–0025 by any of the following methods:

Federal eRulemaking Portal: Regulation.gov. Follow the instructions for submitting comments.

Mail: Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to Regulations.gov, including any personal information provided. For access to the docket to read background documents or comments received, go to Regulations.gov.

Please note: All public comment should be submitted through the Federal eRulemaking portal (Regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact the Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Proposed Project

DELTA FOCUS Program Evaluation—Reinstatement with change—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Intimate Partner Violence (IPV) is a serious, preventable public health problem that affects millions of Americans and results in serious consequences for victims, families, and communities. IPV occurs between two people in a close relationship. The term ''intimate partner'' describes physical, sexual, or psychological harm by a current or former partner or spouse. IPV can impact health in many ways, including long-term health problems, emotional impacts, and links to negative health behaviors. IPV exists along a continuum from a single episode of violence to ongoing battering; many victims do not report IPV to police, friends, or family.

The purpose of the DELTA FOCUS (Domestic Violence Prevention Enhancement and Leadership Through Alliances, Focusing on Outcomes for Communities United with States) program is to promote the prevention of IPV through the implementation and evaluation of strategies that create a foundation for the development of practice-based evidence. By emphasizing primary prevention, this program will support comprehensive and coordinated approaches to IPV prevention. Each State Domestic Violence Coalition (SDVC) is required to identify and fund one to two well-organized, broad-based, active local coalitions (referred to as coordinated community responses or CCRs) that are already engaging in, or are at capacity to engage in, IPV primary prevention strategies affecting the structural determinants of health at the societal and/or community levels of the social ecological model. SDVCs must facilitate and support local-level implementation and hire empowerment evaluators to support the evaluation of IPV prevention strategies by the CCRs. SDVCs must also implement and with their empowerment evaluators, evaluate state-level IPV prevention strategies.

CDC seeks a one-year OMB approval to collect information electronically from awardees, their CCRs and their empowerment evaluators. Information will be collected using the DELTA FOCUS Program Evaluation Survey (referred to as DF Survey). The DF

survey will collect information about SDVCs satisfaction with CDC efforts to support them; process, program and strategy implementation factors that affect their ability to meet the requirements of the Funding Opportunity Announcement; prevention knowledge and use of the public health approach; and sustainability of prevention activities and successes.

Participation in the information collection is required as a condition of funding. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
State Domestic Violence Coalition Executive Director.	DELTA FOCUS Survey	10	1	1	10
State Domestic Violence Coalition Project Coordinator.	DELTA FOCUS Survey	20	1	1	20
Coordinated Community Response Project Coordinator.	DELTA FOCUS Survey	19	1	1	19
State Domestic Violence Coalition Empowerment Evaluator.	DELTA FOCUS Survey	10	1	1	10
Total	.....	.....	.....	.....	59

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. 2016–04939 Filed 3–4–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–16–15BEZ]

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.* Direct written comments and/or suggestions regarding the items contained in this notice 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

Improving Fetal Alcohol Spectrum Disorders Prevention and Practice through Practice and Implementation Centers and National Partnerships—New—National Center on Birth Defects and Developmental Disabilities (NCBDDD), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The National Center on Birth Defects and Developmental Disabilities seeks to collect training evaluation data from healthcare practitioners and staff in health systems where FASD-related practice and systems changes are implemented, and from grantees of Practice and Implementation Centers and national partner organizations related to prevention, identification, and treatment of fetal alcohol spectrum disorders (FASDs).

Prenatal exposure to alcohol is a leading preventable cause of birth defects and developmental disabilities. The term ''fetal alcohol spectrum disorders'' describes the full continuum of effects that can occur in an individual exposed to alcohol in utero. These effects include physical, mental, behavioral, and learning disabilities. All of these have lifelong implications.

The purpose of this program is to expand previous efforts from FASD training programs and shift the perspective from individual training for practicing healthcare professionals to one that capitalizes on prevention opportunities and the ability to impact health care practice at the systems level.

Since 2002, CDC funded FASD Regional Training Centers (RTCs) to provide education and training to healthcare professionals and students about FASD prevention, identification, and treatment. In July 2013, CDC convened an expert review panel to evaluate the effectiveness of the RTC program overall and to make recommendations about the program.

The panel highlighted several accomplishments of the RTCs and proposed several changes for future programming: (1) The panel identified a need for more comprehensive coverage nationally with discipline-specific trainings, increased use of technology, greater collaboration with medical societies, and stronger linkages with national partner organizations to increase the reach of training opportunities, and (2) The panel suggested that the training centers focus on demonstrable practice change and

sustainability and place a stronger emphasis on primary prevention of FASDs. In addition, it was recommended that future initiatives have stronger evaluation components.

Based on the recommendations of the expert review panel, CDC is placing increased focus on prevention, demonstrating practice change, achieving national coverage, and strengthening partnerships between FASD Practice and Implementation Centers, or PICs (the newly redesigned RTCs), and medical societies and national partner organizations. The National Organization on Fetal Alcohol Syndrome (NOFAS) also participates in this project as a resource to the PICS and national partners. The PICs and national partners are asked to closely collaborate in discipline-specific workgroups (DSWs) and identify strategies that will increase the reach of the program on a national level. While a major focus of the grantees' work will be national, regional approaches will be used to develop new content and ''test out'' feasibility and acceptability of materials, especially among healthcare providers and medical societies. In addition, CDC is placing a stronger emphasis on evaluation, with both individual DSW/NOFAS evaluations and a cross-site evaluation.

CDC requests OMB approval to collect program evaluation information from (1) healthcare practitioners from disciplines targeted by each DSW, including training participants, (2) health system staff, and (3) cooperative agreement grantees over a three-year period.

- Healthcare practitioners will complete surveys to provide information on whether project trainings impacted their knowledge and practice behavior regarding FASD identification, prevention, and treatment. The information will be used to improve future trainings and assess whether knowledge and practice changes occurred. Some participants will also complete qualitative key informant interviews to gain additional information on practice change.
- Health system employees will be interviewed or complete surveys as part of projects to assess healthcare systems change, including high impact evaluation studies and DSW systems change projects. The high impact evaluation studies will be primarily qualitative assessments of two to three specific grantee efforts that seem likely to result in achievement of program objectives. The DSW systems change projects will employ online surveys to assess systems change in selected health systems across the U.S.
- Grantees will complete program evaluation forms to track perceptions of DSW collaboration and perceptions of key successes and challenges encountered by the DSW.

It is estimated that 29,573 respondents will participate in the evaluation each year, for a total estimated burden of 3790 hours annually. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number responses per respondent	Average burden per response (in hours)
Project Grantee Staff	DSW Report	90	2	10/60
DSW Project Staff	High Impact Study: Discipline Specific Workgroup Discussion Guide for Project Staff.	10	2	60/60
Health Care System Staff	High Impact Study: Key Informant Interview—Health Care System Staff.	10	2	60/60
FASD Core Training Participants	FASD Core Training Survey—Pre-Test	4013	1	9/60
FASD Core Training Participants	FASD Core Training Survey—Post-Test	4013	1	5/60
FASD Core Training Participants	FASD Core Training Survey—6 Month Follow-Up.	4013	1	6/60
Nurses	Pre-Training Survey for Nursing	667	1	9/60
Nurses	Post-Training Survey for Nursing	550	1	9/60
Nurses	Six Month Follow-Up Training Survey for Nursing.	440	1	9/60
Nurses	Nursing DSW Polling Questions	417	1	5/60
Nurses	Key Informant Interviews with Champions	14	2	45/60
Nurses	Brief Questionnaire for Nursing Organization Memberships.	2,934	1	10/60
Nurses	Friends & Members of the Network Survey	34	2	10/60
Healthcare Organization Representatives	Healthcare Organization Utilization Survey	234	1	30/60
Physicians and students in allied health professions.	OBGYN SBI Knowledge & Agency	600	1	2/60
Physicians	OBGYN BI–MI Proficiency Rating Scale—Provider Skills Training Baseline.	600	1	3/60
Students in allied health professions	OBGYN BI–MI Proficiency Rating Scale—Standardized Patient Version.	600	1	3/60
Physicians	OBGYN BI–MI Proficiency Rating Scale—Provider Follow Up (3m & 6m).	600	2	3/60
Physicians and students in allied health professions.	OBGYN Telecom Training Satisfaction Survey.	480	1	5/60
Physicians and students in allied health professions.	OBGYN Avatar Training Satisfaction Survey	120	1	5/60
Physicians	OBGYN FASD–SBI Training Event Evaluation.	124	1	2/60
Residency Directors, Training Coordinators, Clinical Directors, Physicians.	OBGYN Qualitative Key Informant Interview—Pre-Training.	34	1	25/60
Residency Directors, Training Coordinators, Clinical Directors, Physicians.	OBGYN Qualitative Key Informant Interview—Post-Training.	34	1	25/60

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form name	Number of respondents	Number responses per respondent	Average burden per response (in hours)
Certified Medical Assistants and students	Medical Assistant—Pre-Test Survey	334	1	10/60
Students	Medical Assistant—Pre-Test Survey (Academic).	67	1	10/60
Certified Medical Assistants and students	Medical Assistant—Post-Test Survey	334	1	10/60
Students	Medical Assistant—Post-Test Survey (Academic).	67	1	10/60
Certified Medical Assistants and students	Medical Assistant Follow Up Survey	200	1	10/60
Students	Medical Assistant Follow Up Survey (Academic).	17	1	10/60
Certified Medical Assistants and students	Medical Assistants Change in Practice Survey.	250	1	15/60
Physicians	Survey of Pediatricians—Baseline and Follow Up.	534	2	10/60
Physicians	AAP Post-Training Evaluation Survey	120	1	7/60
Physicians	AAP Pre-Training Evaluation Survey	120	1	7/60
Physicians	AAP Three Month Follow Up Evaluation Survey.	120	1	2/60
Physicians	AAP Six Month Follow Up Evaluation Survey	120	1	5/60
Physicians	FASD Toolkit User Survey	50	1	15/60
Physicians	FASD Toolkit Evaluation Focus Group/Guided Interview.	10	1	30/60
Physicians	Pediatric FASD Regional Education and Awareness Liaisons Work Plan.	10	1	20/60
Physicians	Pediatric FASD Regional Liaison/Champion Training Session Evaluation.	10	1	4/60
Physicians	Family Medicine Evaluation Questions Addendum for Practice or Individual Provider.	62	1	8/60
Practicing family physicians, family physician faculty, residents, social workers, social work students.	Social Work and Family Physicians Pre-training Survey.	1167	1	8/60
Practicing family physicians, family physician faculty, residents, social workers, social work students.	Social Work and Family Physicians Post-training Survey.	1167	1	5/60
Practicing family physicians, family physician faculty, residents, social workers, social work students.	Social Work and Family Physicians 6-Month Follow Up Survey.	1167	1	8/60
NOFAS webinar attendees	NOFAS Webinar Survey	601	1	2/60
NOFAS webinar attendees	NOFAS Three Month Follow-Up Webinar Questionnaire.	601	1	2/60
NOFAS training participants	NOFAS Pre-Test Survey	551	1	3/60
NOFAS training participants	NOFAS Post-Test Survey	551	1	3/60
Systems change project participants	Clinical Process Improvement Survey	246	2	10/60
Systems change project participants	TCU Organizational Readiness Survey	246	2	10/60
Systems change project participants	Organizational Readiness to Change Assessment.	220	2	10/60

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. 2016–05073 Filed 3–4–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Agency Information Collection Activities; Proposed Collection; Comment Request; Evidence-Based Falls Prevention Program Standardized Data Collection

AGENCY: Administration for Community Living (ACL), HHS.

ACTION: Notice.

SUMMARY: The Administration for Community Living (ACL), Administration on Aging (AoA) is announcing an opportunity for public comment on the proposed collection of certain information. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection requirements relating to the Chronic Disease Self-Management Education Program.

DATES: Submit written or electronic comments on the collection of information.

ADDRESSES: Submit electronic comments on the collection of

information to: *kristie.kulinski@acl.hhs.gov.* Submit written comments on the collection of information to Kristie Kulinski, U.S. Administration for Community Living, Administration on Aging, 330 C Street SW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Kristie Kulinski (*kristie.kulinski@acl.hhs.gov).*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency request or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, AoA is publishing notice of the proposed collection of information set forth in this document. With respect to the following collection of information, ACL invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of ACL's functions, including whether the information will have practical utility; (2) the accuracy of ACL's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology. The ''Empowering Older Adults and Adults with Disabilities through Chronic Disease Self-Management Education (CDSME) Programs'' cooperative agreement program has been financed through Prevention and Public Health Funds (PPHF), most recently by FY2015 PPHF funds. The statutory authority for cooperative agreements under the current program announcement is contained in the Public Health Service Act, 42 U.S.C. 300u–2 (Community Programs) and 300u–3 (Information Programs); and Consolidated and Further Continuing Appropriations Act, 2015, Pub. L. 113–235, Div. G., Title II, 219(a); and the Patient Protection and Affordable Care Act, 42 U.S.C. 300u–11 (Prevention and Public Health Fund).

OMB approval of the existing set of CDSME data collection tools (OMB Control Number, 0985–0036) expires on 07/31/2016. This data collection continues to be necessary for monitoring program operations and outcomes. ACL proposes to use revised versions of the following tools: (1) Semi-annual progress reports to monitor grantee progress; (2) an Organization Data form to record location of sites where programs are held which will allow mapping of the delivery infrastructure; and (3) a set of tools used to collect information at each program completed by the program leaders/delivery personnel (Program Information Cover Sheet and Attendance Log) and a Participant Information Survey completed by each participant to document their demographic and health characteristics. ACL is not requesting renewal of one other data collection tool, the Annual Integrated Services Delivery System Assessment Tool. ACL proposes to gather data using an existing online data entry system for the program and participant survey data. The current proposed Data Collection Tools can be found at ACL's Web site at: *http://www.aoa.acl.gov/AoA_Programs/Tools_Resources/collection_tools.aspx.* ACL estimates the burden of this collection of information as 128 hours for grantee staff, 220 hours for local agency staff and volunteers, and 92 hours for individuals—Total burden is 440 hours per year. This assumes a data collection sample of 386 workshops.

Dated: March 1, 2016.

Kathy Greenlee,

Administrator and Assistant Secretary for Aging.

[FR Doc. 2016–04924 Filed 3–4–16; 8:45 am]

BILLING CODE 4154 –01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Senior Medicare Patrol (SMP) Program Outcome Measurement

AGENCY: Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The Administration for Community Living (ACL) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by May 6, 2016.

ADDRESSES: Submit written comments on the collection of information by fax 202–395–5806 or by email to *OIRA_submission@omb.eop.gov,* Attn: OMB Desk Officer for ACL.

FOR FURTHER INFORMATION CONTACT: Phillip McKoy at 202–795–7397 or email: *phillip.mckoy@acl.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, ACL has submitted the following proposed collection of information to OMB for review and clearance.

Grantees are required by Congress to provide information for use in program monitoring and for Government Performance and Results Act (GPRA) purposes. This information collection reports the number of active volunteers, issues and inquiries received, other SMP program outreach activities, and the number of Medicare dollars recovered, among other SMP performance outcomes. This information is used as the primary method for monitoring the SMP Projects.

ACL estimates the burden of this collection of information as follows: *Respondents:* 54 SMP grantees at 23 hours per month (276 hours per year, per grantee). *Total Estimated Burden Hours:* 7,452 hours per year.

Dated: March 1, 2016.

Kathy Greenlee,

Administrator and Assistant Secretary for Aging.

[FR Doc. 2016–04925 Filed 3–4–16; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–0668]

Mechanistic Oral Absorption Modeling and Simulation for Formulation Development and Bioequivalence Evaluation; 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 or the Agency) is

announcing a public workshop entitled ''Mechanistic Oral Absorption Modeling and Simulation for Formulation Development and Bioequivalence Evaluation.'' The purposes of the workshop are to share current FDA experiences on the application of mechanism-based absorption modeling and simulation in regulatory activities; discuss current and future utility of mechanism-based absorption modeling and simulation in the development of bioequivalent oral drug products and regulatory reviews; obtain input from various stakeholders on when, where, and how to conduct mechanism-based absorption modeling and simulations in the context of bioequivalent product development; and request comments on these topics.

DATES: The public workshop will be held on May 19, 2016, from 8:30 a.m. to 4:30 p.m. Individuals who wish to attend the workshop must register by April 19, 2016. The deadline for submitting either electronic or written comments on this workshop is June 20, 2016. See the **SUPPLEMENTARY INFORMATION** section for registration date and information.

ADDRESSES: The public workshop will be held at FDA 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. Since 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–0668 for ''Mechanistic Oral Absorption Modeling and Simulation for Formulation Development and Bioequivalence Evaluation; 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: Xinyuan Zhang, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 4612, Silver Spring, MD 20993, 240–402–7971, email: *Xinyuan.Zhang@fda.hhs.gov;* or Liang Zhao, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 4606, Silver Spring, MD 20993, 240–402–4468, email: *Liang.Zhao@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In July 2012, Congress passed the Generic Drug User Fee Amendments (GDUFA) (Title III of the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144)). GDUFA is designed to enhance public access to safe, high-quality generic drugs and reduce costs to industry. To support this goal, FDA agreed in the GDUFA commitment letter to work with industry and interested stakeholders on identifying regulatory science research priorities specific to generic drugs for each fiscal year covered by GDUFA. The commitment letter outlines FDA's performance goals and procedures under the GDUFA program for the years 2012 to 2017. The commitment letter can be found at *http://www.fda.gov/downloads/ForIndustry/UserFees/GenericDrugUserFees/UCM282505.pdf.*

In the Regulatory Science section of the GDUFA Commitment Letter, FDA outlined its plans to advance regulatory science, including with respect to modeling and simulation. To enhance communication of recent advances in modeling and simulation, including those supported by GDUFA funds, FDA plans to hold a public workshop on

mechanistic oral absorption modeling and simulation. Mechanism-based absorption modeling and simulation is a computational tool that integrates drug substance information, drug product information, drug product in vitro performance, and physiological properties of the human body to predict drug product pharmacokinetics in vivo. Modeling simulation studies may also, in principle, be used as a tool to elucidate dissolution boundaries that have high likelihood of remaining bioequivalence, and those boundaries can be used to inform clinically relevant dissolution specifications. Models developed in a mechanistic manner integrating all available knowledge relevant to the absorption process lend great value for development of bioequivalent oral drug products and regulatory evaluation because the main differences between the reference drug products and the bioequivalent products (*e.g.,* the difference in formulation factors) are taken into account in the model.

II. Purpose and Scope of the Workshop

The purpose of the workshop is to:

1. Share FDA's current experiences on the application of mechanism-based absorption modeling and simulation in regulatory activities;
2. Discuss the current and future utility of mechanism-based absorption modeling and simulation in development of bioequivalent oral drug products and regulatory reviews; and
3. Obtain input from the public on when, where, and how mechanism-based absorption modeling and simulation should be applied in development of bioequivalent oral drug products and review of bioequivalence.

The scope of the workshop covers the current status of mechanism-based absorption modeling and simulation from academia, industry, and regulatory perspectives.

The majority of drug products on the market are administered orally. Predicting oral bioavailability is always of great interest for pharmaceutical scientists. It has been a long journey for scientists to develop mechanistic absorption models for oral bioavailability prediction to reduce drug development time and cost, and to inform regulatory decisions. From simpler models to more complex ones, mechanism-based absorption models have been advanced substantially and their applications have been increasingly found in scientific literature and regulatory reports.

The high value of leveraging mechanistic absorption models in the development and evaluation of bioequivalent drug products can be attributed to their incorporation of formulation factors. The focus of this public workshop is on the application of mechanistic absorption modeling and simulation for development of bioequivalent oral drug products and evaluation of bioequivalence, including discussing the areas in which mechanistic oral absorption models can contribute significantly, how the mechanistic absorption modeling and simulation should be conducted and evaluated, and inherent scientific challenges.

Public input will improve FDA's current understanding of using mechanism-based absorption modeling and simulation in bioequivalence evaluation. The knowledge gained from, and consensus reached, through this workshop will be summarized and disseminated to the scientific community by publication(s).

III. Scope of Public Input Requested

FDA seeks input from the public on when, where, and how to utilize mechanism-based absorption modeling and simulation in the context of development of bioequivalent oral drug products and regulatory evaluation of bioequivalence. Specific topics to be addressed include:

1. Identifying the areas in which mechanistic oral absorption models can contribute significantly during development of bioequivalent oral drug products and regulatory evaluation of bioequivalence;
2. How mechanistic absorption modeling and simulation should be conducted and evaluated; and
3. The scientific challenges in mechanistic oral absorption and simulation.

Registration and Requests for Attendee Participation: The FDA Conference Center at the White Oak Campus is a Federal facility with security screening and limited seating. Individuals who wish to attend the public workshop (either in person or by Webcast (see *Streaming Webcast of the Public Workshop*)) must register on or before April 19, 2016, by sending a request to *CDER-OGD-OfficeofResearchandStandardsAnnouncement@fda.hhs.gov* with their complete contact information (*i.e.,* name, title, affiliation, address, email address, and telephone number).

There is no registration fee for the public workshop. Early registration is recommended because seating is limited. Registration on the day of the public workshop will be provided on a space available basis beginning at 8 a.m.

If you need special accommodations due to a disability, please contact Xinyuan Zhang (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance.

The workshop agenda and other background materials will be available approximately 2 weeks before the workshop at *http://www.fda.gov/Drugs/NewsEvents/ucm488178.htm.* The agenda will include time for questions and answers throughout the day and for general comments and questions from the audience following panel discussions.

In this document, FDA has included specific issues that will be addressed by the panel. If you wish to address one or more of these issues, please submit your comments via the Docket or speak during the public comments session at the workshop. If you wish to speak during the public comments session at the workshop, please indicate it at the time you register so that FDA can consider that in planning the agenda. FDA will do its best to accommodate requests to speak.

Streaming Webcast of the Public Workshop: A live Webcast of this workshop will be viewable at *https://collaboration.fda.gov/r6gjahu3ejv* on the day of the workshop. The live Webcast will be in a listening only mode.

Transcripts: Transcripts of the workshop will be available for review at *http://www.fda.gov/Drugs/NewsEvents/ucm488178.htm* at the Division of Dockets Management (see **ADDRESSES**), and at *http://www.regulations.gov* approximately 30 days after the workshop. 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: March 1, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–04965 Filed 3–4–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–D–0539]

Clinical Considerations for Investigational Device Exemptions for Neurological Devices Targeting Disease Progression and Clinical Outcomes; Draft Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of the draft guidance entitled ''Clinical Considerations for Investigational Device Exemptions (IDEs) for Neurological Devices Targeting Disease Progression and Clinical Outcomes.'' The Center for Devices and Radiological Health (CDRH) developed this draft guidance to assist sponsors who intend to submit an IDE to the FDA to conduct clinical trials on medical devices targeting neurological disease progression and clinically meaningful patient centered outcomes. This draft guidance is not final nor is it in effect at this time.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment of this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by June 6, 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–0539 for ''Clinical Considerations for Investigational Device Exemptions (IDEs) for Neurological Devices Targeting Disease Progression and Clinical Outcomes.'' 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.

An electronic copy of the guidance document is available for download from the Internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the draft guidance document entitled ''Clinical Considerations for Investigational Device Exemptions (IDEs) for Neurological Devices Targeting Disease Progression and Clinical Outcomes'' to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Carlos Peña, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 2680, Silver Spring, MD 20993–0002, 301–796–6610.

SUPPLEMENTARY INFORMATION:

I. Background

FDA believes that neurological devices intended to slow disease progression and improve clinical outcomes that are meaningful may represent a revolutionary option for patients. FDA developed this draft guidance to assist sponsors who intend to submit an IDE to the FDA to conduct clinical trials on medical devices targeting neurological disease progression and clinically meaningful patient centered outcomes. The draft guidance is intended to aid industry and FDA staff in considering the benefits and risks of medical devices that target either the cause or progression of the neurological disorder or condition such as Alzheimer's disease, Parkinson's

Disease, or Primary Dystonia, rather than their symptoms. This draft guidance is intended to apply to neurological medical devices that are designed to slow, stop, or reverse the progression of disease and result in clinically meaningful patient outcomes. This draft guidance provides general study design considerations for clinical trials that investigate neurological devices using biological markers and clinical outcome assessments.

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Clinical Considerations for Investigational Device Exemptions (IDEs) for Neurological Devices Targeting Disease Progression and Clinical Outcomes.'' 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.

III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by downloading an electronic copy from the Internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *http://www.fda.gov/ MedicalDevices/ DeviceRegulationandGuidance/ GuidanceDocuments/default.htm.* Guidance documents are also available at *http://www.regulations.gov.* Persons unable to download an electronic copy of ''Clinical Considerations for Investigational Device Exemptions (IDEs) for Neurological Devices Targeting Disease Progression and Clinical Outcomes'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 1500021 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 812 have been approved under OMB control number 0910–0078; the collections of information in 21 CFR parts 801 and 809 have been approved under OMB control number 0910–0485; the collections of information in 21 CFR part 50 have been approved under OMB control number 0910–0755; and the collections of information in the guidance document entitled ''Request for Feedback on Medical Device Submissions: The Pre-submission Program and Meetings With Food and Drug Administration Staff'' have been approved under OMB control number 0910–0756.

Dated: March 1, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–04947 Filed 3–4–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–D–0768]

Donor Screening Recommendations To Reduce the Risk of Transmission of Zika Virus by Human Cells, Tissues, and Cellular and Tissue-Based Products; 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 document entitled ''Donor Screening Recommendations to Reduce the Risk of Transmission of Zika Virus by Human Cells, Tissues, and Cellular and Tissue-Based Products; Guidance for Industry.'' The guidance document provides establishments that make donor eligibility (DE) determinations for donors of human cells, tissues, and cellular and tissue-based products (HCT/Ps) with recommendations for screening donors for evidence of, and risk factors for, infection with Zika virus (ZIKV). The guidance identifies ZIKV as a relevant communicable disease agent or disease (RCDAD) and adds to recommendations contained in the guidance entitled ''Eligibility Determination for Donors of Human Cells, Tissues, and Cellular and Tissue-Based Products (HCT/Ps)'' dated August 2007.

DATES: The Agency is soliciting public comment, but is implementing this guidance immediately because the Agency has determined that prior public participation is not feasible or appropriate. 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–2016–D–0545 for ''Donor Screening Recommendations to Reduce the Risk of Transmission of Zika Virus by Human Cells, Tissues, and Cellular and Tissue-Based Products; Guidance for Industry.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be

made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Submit written requests for single copies of the guidance to the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research (CBER), 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 the office in processing your requests. The guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 240–402–8010. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Jonathan McKnight, 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 document entitled ''Donor Screening Recommendations to Reduce the Risk of Transmission of Zika Virus by Human Cells, Tissues, and Cellular and Tissue-Based Products; Guidance for Industry.'' The guidance provides establishments that make DE determinations for donors of HCT/Ps with recommendations for screening donors for evidence of, and risk factors for, infection with ZIKV. The guidance identifies ZIKV as a RCDAD as defined in 21 CFR part 1271. The guidance adds to recommendations contained in the guidance entitled ''Eligibility Determination for Donors of Human Cells, Tissues, and Cellular and Tissue-Based Products (HCT/Ps)'' dated August 2007.

ZIKV is an arbovirus from the Flaviviridae family, genus *Flavivirus.* It is transmitted to humans primarily by the *Aedes aegypti* mosquito, but it may also be transmitted by the *Aedes albopictus* mosquito, among others. In addition, intrauterine, perinatal, and sexual transmissions of ZIKV have been reported. Two instances of possible transfusion-transmission of ZIKV in Brazil have been described in media announcements.

The most common ZIKV disease symptoms include fever, arthralgia, maculopapular rash, and conjunctivitis. Neurological manifestations and congenital anomalies may also be associated with ZIKV disease outbreaks. For example, possible association of ZIKV infection with Guillain-Barré syndrome cases has been reported during outbreaks in French Polynesia and Brazil. There has also been a marked increase in the reported incidence of microcephaly in regions of Brazil most affected by the ZIKV epidemic, though a direct connection has yet to be confirmed.

ZIKV reached the Americas in early 2015 with local transmission first reported in Brazil. According to the Centers for Disease Control and Prevention (CDC), as of February 23, 2016, there are 34 countries and territories worldwide with active local transmission of the virus. To date, local mosquito-borne transmission of ZIKV has not been reported in the continental United States, but at least 82 cases have been reported in travelers returning to the United States from areas with local transmission.

In general, an area is considered to have active transmission of ZIKV when locally transmitted, mosquito-borne ZIKV has been reported. For the purpose of the guidance, an area with ''active ZIKV transmission'' is an area included on the CDC Web site listing of countries and U.S. States and territories with local vector-borne (*i.e.,* mosquito-acquired) transmission of ZIKV: *http://www.cdc.gov/zika/geo/index.html.*

As noted above, FDA has identified that ZIKV is an RCDAD as defined in § 1271.3(r)(2). Therefore, review of relevant medical records, as defined in § 1271.3(s), must indicate that a potential donor of HCT/Ps is free from risk factors for, or clinical evidence of, ZIKV infection for the purpose of determining donor eligibility. The recommendations in the guidance are intended to reduce the risk of transmission of ZIKV by HCT/Ps. Living donors of HCT/Ps should be considered ineligible if they have any of the following risk factors: (1) Medical diagnosis of ZIKV infection in the past 6 months; (2) residence in, or travel to, an area with active ZIKV transmission within the past 6 months; or (3) sex within the past 6 months with a male who has either of the risk factors identified in items 1 or 2, above. Additionally, donors of umbilical cord, placenta, or other gestational tissues should be considered ineligible if the birth mother who seeks to donate gestational tissues has any of the following risk factors: (4) Medical diagnosis of ZIKV infection at any point during that pregnancy; (5) residence in, or travel to, an area with active ZIKV transmission at any point during that pregnancy; or (6) sex at any point during that pregnancy with a male who has either of the risk factors listed in items 1 or 2 above. Additionally, a non-heart beating (cadaveric) donor should be considered ineligible if the donor had a medical diagnosis of ZIKV infection in the past 6 months.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). FDA is issuing this guidance for immediate implementation in accordance with 21 CFR 10.115(g)(2) without initially seeking prior comment because the Agency has determined that prior public participation is not feasible or appropriate. The guidance represents the current thinking of FDA on ''Donor Screening Recommendations to Reduce the Risk of Transmission of Zika Virus by Human Cells, Tissues, and Cellular and Tissue-Based Products.'' 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. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in part 1271 have been approved under OMB control number 0910–0543.

III. Electronic Access

Persons with access to the Internet may obtain the guidance at either *http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov*.

Dated: March 1, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–04893 Filed 3–4–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–D–1849]

Medical Devices and Clinical Trial Design for the Treatment or Improvement in the Appearance of Fungally-Infected Nails; Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of the guidance entitled ''Medical Devices and Clinical Trial Design for the Treatment or Improvement in the Appearance of Fungally-Infected Nails.'' This guidance is intended to provide recommendations regarding clinical trial design for medical devices intended either to provide improvement in the appearance of nails affected by onychomycosis or to treat onychomycosis (fungal nail infection).

DATES: Submit either electronic or written comments on this guidance at any time. General comments on Agency guidance documents are welcome 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–2014–D–1849 for ''Medical Devices and Clinical Trial Design for the Treatment or Improvement in the Appearance of Fungally-Infected Nails.'' 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.

An electronic copy of the guidance document is available for download from the Internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the guidance document entitled ''Medical Devices and Clinical Trial Design for the Treatment or Improvement in the Appearance of Fungally-Infected Nails'' to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Shlomit Halachmi, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. G439, Silver Spring, MD 20993–0002, 301–796–6338.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry and FDA staff

entitled ''Medical Devices and Clinical Trial Design for the Treatment or Improvement in the Appearance of Fungally-Infected Nails.'' This guidance is intended to provide recommendations regarding clinical trial design for medical devices intended either (1) to provide improvement in the appearance of nails affected by onychomycosis, or (2) to treat onychomycosis (fungal nail infection).

In the **Federal Register** on January 27, 2015 (80 FR 4281), FDA announced the availability of the draft guidance document. Interested persons were invited to comment by April 27, 2015.

II. Significance of 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 medical devices and clinical trial design for the treatment or improvement in the appearance of fungally-infected nails. 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.

III. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by downloading an electronic copy from the Internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* Guidance documents are also available at *http://www.regulations.gov.* Persons unable to download an electronic copy of ''Medical Devices and Clinical Trial Design for the Treatment or Improvement in the Appearance of Fungally-Infected Nails'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 1400009 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 807, subpart E have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 812 are approved under OMB control number 0910–0078; the collections of information in 21 CFR part 814, subparts B and E are approved under OMB control number 0910–0231; the collections of information in 21 CFR part 814, subpart H are approved under OMB control number 0910–0332; the collections of information regarding adverse events have been approved under OMB control number 0910–0471; and the collections of information in 21 CFR part 801 have been approved under OMB control number 0910–0485.

The labeling recommendations of this guidance are not subject to review by the Office of Management and Budget because they do not constitute a ''collection of information'' under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). Rather, the recommended labeling is a ''public disclosure of information originally supplied by the Federal Government to the recipient for the purpose of disclosure to the public'' (see 5 CFR 1320.3(c)(2)).

Dated: March 1, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–04946 Filed 3–4–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–D–1213]

Environmental Assessment: Questions and Answers Regarding Drugs With Estrogenic, Androgenic, or Thyroid Activity; 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 ''Environmental Assessment: Questions and Answers Regarding Drugs With Estrogenic, Androgenic, or Thyroid Activity.'' It is intended to help sponsors of such drugs determine whether they should submit environmental assessments (EA) for drug applications and certain supplements, and to clarify what information such sponsors should include if they submit a claim of categorical exclusion instead of an EA.

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–2015–D–1213 for Environmental Assessment: Questions and Answers Regarding Drugs with Estrogenic, Androgenic, or Thyroid Activity. 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. 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: Raanan A. Bloom, Environmental Assessment Team, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–2185, *CDER.EA.Team@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Environmental Assessment: Questions and Answers Regarding Drugs with Estrogenic, Androgenic, or Thyroid Activity.'' This guidance finalizes the draft of the same name that published on April 29, 2015. The National Environmental Policy Act of 1969 (NEPA) requires all Federal agencies to assess the environmental impact of their actions and to ensure that the interested and affected public is informed of the environmental analyses. FDA regulations at 21 CFR part 25 specify that EAs must be submitted as part of certain new drug applications (NDAs), abbreviated new drug applications (ANDAs), biologic license applications (BLAs), supplements to such applications, and investigational new drug applications (INDs), and for various other actions, unless the action qualifies for a categorical exclusion. Failure to submit either an EA or a claim of categorical exclusion is sufficient grounds for FDA to refuse to file or approve an application (21 CFR 25.15(a), 314.101(d)(4) and 601.2(a) and (c)).

Categorical exclusions for actions related to human drugs and biologics are listed at 21 CFR 25.31. This guidance focuses on the categorical exclusion for actions on NDAs and NDA supplements that would increase the use of an active moiety, but the estimated concentration of the substance at the point of entry into the aquatic environment would be below 1 part per billion (1 ppb) (21 CFR 25.31(b)). Although an action that qualifies for this exclusion ordinarily does not require an EA, FDA will require ''at least an EA'' if ''extraordinary circumstances'' indicate that the specific proposed action (*e.g.,* the approval of the NDA) may significantly affect the quality of the human environment (21 CFR 25.21). Research indicates that drugs with endocrine-related activity and, more specifically, drugs with Estrogenic, Androgenic, or Thyroid Activity (E, A, or T) activity have the potential to cause developmental or reproductive effects when present in the aquatic environment at concentrations below 1 ppb.[1]

FDA has, on a case-by-case basis, requested additional information from sponsors of NDAs and NDA supplements for drugs with E, A, or T activity to help it determine whether extraordinary circumstances exist. However, late cycle requests for additional environmental information have the potential to delay approval of applications. Accordingly, this guidance is intended to clarify that sponsors of drugs with potential E, A, or T activity should consult with the Agency early in product development concerning the information FDA may need to determine whether an EA will be required or whether a claim of categorical exclusion will be acceptable, and what information should be included in the EA or claim of categorical exclusion.

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 Environmental Assessment: Questions and Answers Regarding Drugs With Estrogenic, Androgenic, or Thyroid Activity. 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 25 have been approved under OMB control number 0910–0322 and the collections of information in 21 CFR part 314 have been approved under OMB control number 0910–0001.

III. Electronic Access

Persons with access to the Internet may obtain the guidance at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov.*

Dated: March 1, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–04964 Filed 3–4–16; 8:45 am]

BILLING CODE 4164–01–P

[1] For example, see Section II.C (pp. 7–13) of USFDA, 2013, ''Response to Citizen Petition to the FDA Commissioner under the National Environmental Policy Act and Administrative Procedure Act Requesting an Amendment to an FDA Rule Regarding Human Drugs and Biologics,'' Docket No. FDA–2010–P–0377; U.S. Environmental Protection Agency (USEPA), Endocrine Disruptor Screening Program (EDSP), last accessed February 17, 2015, at *http://www.epa.gov/endo;* and Organisation for Economic Co-operation and Development (OECD), OECD Work Related to Endocrine Disrupters, last accessed February 17, 2015, at *http://www.oecd.org/env/ehs/testing/oecdworkrelatedtoendocrinedisrupters.htm.*

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–P–1189]

Canned Tuna Deviating From Identity Standard: Temporary Permit for Market Testing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing the extension of temporary permits issued to Bumble Bee Foods, LLC; Chicken of the Sea International; and StarKist Seafood Company (the applicants) to market test products (designated as ''canned tuna'') that deviate from the U.S. standard of identity for canned tuna. The extension allows the applicants to continue to measure consumer acceptance of the products and assess the commercial feasibility of the products, in support of a petition to amend the standard of identity for canned tuna. We also invite other interested parties to participate in the market test.

DATES: The new expiration date of the permit will be either the effective date of a final rule amending the standard of identity for canned tuna that may result from the petition or 30 days after denial of the petition.

FOR FURTHER INFORMATION CONTACT: Loretta A. Carey, Center for Food Safety and Applied Nutrition (HFS–820), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–2371.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17, we issued temporary permits to Bumble Bee Foods, LLC, 9655 Granite Ridge Dr., San Diego, CA 92123; Chicken of the Sea International, 9330 Scranton Rd. Suite 500, San Diego, CA 92121; and StarKist Seafood Company, 225 North Shore Dr., Pittsburgh, PA 15212, to market test products identified as ''canned tuna'' that deviate from the requirements of the standard of identity for canned tuna in 21 CFR 161.190 (79 FR 35362, June 20, 2014). We issued the permits to facilitate market testing of products that deviate from the requirements of the standard of identity for canned tuna issued under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341). The permit covers limited interstate marketing tests of products identified as ''canned tuna.'' These test products deviate from the U.S. standard of identity for canned tuna (§ 161.190) in that they are labeled without the statement ''Below Standard in Fill'' as required in § 161.190(c)(4) and § 130.14(b). The test products meet all the requirements of the standard with the exception of this deviation.

On September 3, 2015, the applicants asked us to extend the temporary permit so they could have more time to market test the canned tuna products and gain additional consumer acceptance in support of the petition to amend the standard for canned tuna. We find that it is in the interest of consumers to extend the permit for the market testing of canned tuna to gain additional information on consumer expectations and acceptance. Therefore, under § 130.17(i), we are extending the temporary permits granted to Bumble Bee Foods, LLC (141,000,000 pounds (lbs) (63,800,905 kilograms (kgs))); Chicken of the Sea International (77,500,000 lbs (35,067,873 kgs)); and StarKist Seafood Company (182,500,000 lbs (82,579,185 kgs)) to provide continued market testing of the specified amounts of product for each applicant on an annual basis. The test products will bear the name ''canned tuna.'' The new expiration date of the permit will be either the effective date of a final rule amending the standard of identity for canned tuna that may result from the petition or 30 days after denial of the petition. All other conditions and terms of this permit remain the same.

In addition, we invite interested persons to participate in the market test under the conditions of the permit, except for the designated area of distribution. Any person who wishes to participate in the extended market test must notify, in writing, the Supervisor, Product Evaluation Labeling Team, Food Labeling and Standards Staff, Office of Nutrition and Food Labeling, Center for Food Safety and Applied Nutrition (HFS–820), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740. The notification must describe the test products and the area of distribution, specify and justify the amount requested, and include the labeling that will be used for the test product (*i.e.,* a draft label for each size of container and each brand of product to be market tested) (see § 130.17(c)). The information panel of the label must bear nutrition labeling in accordance with 21 CFR 101.9. Each of the ingredients used in the food must be declared on the label as required by 21 CFR part 101.

Dated: March 1, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–04944 Filed 3–4–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2004–D–0544 (formerly 2004D–0487)]

A Dietary Supplement Labeling Guide: Chapter II. Identity Statement; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing the availability of a revised guidance for industry entitled ''A Dietary Supplement Labeling Guide: Chapter II. Identity Statement.'' This guidance is part of a longer guidance entitled ''A Dietary Supplement Labeling Guide,'' which covers the most frequently raised questions about the labeling of dietary supplements using a question and answer format and is intended to help ensure that the dietary supplements sold in the United States are properly labeled. We are revising the guidance to correct an inaccurate statement.

DATES: Submit either electronic or written comments on FDA 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–2004–D–0544 (formerly 2004D–0487) for ''A Dietary Supplement Labeling Guide: Chapter II. Identity Statement: Guidance for Industry.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Submit written requests for single copies of the guidance to the Office of Dietary Supplement Programs, Center for Food Safety and Applied Nutrition (HFS–810), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740. Send two self-addressed adhesive labels to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT: Cara Welch, Center for Food Safety and Applied Nutrition (HFS–810), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–2375.

SUPPLEMENTARY INFORMATION:

I. Background

We are announcing the availability of a revised guidance for industry entitled ''A Dietary Supplement Labeling Guide: Chapter II. Identity Statement.'' We are issuing this guidance consistent with our good guidance practices (GGP) regulation (21 CFR 10.115). As with all FDA guidance, the guidance represents our current thinking on this topic. 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.

In April 2005, we issued a guidance for industry entitled ''A Dietary Supplement Labeling Guide.'' The guidance covers the most frequently raised questions about the labeling of dietary supplements using a question and answer format and is intended to help ensure that the dietary supplements sold in the United States are properly labeled. We recently were made aware that the guidance was inaccurate in one detail. Specifically, in Chapter II, entitled ''Identity Statement,'' question 3 asked ''Can the term 'dietary supplement' by itself be considered the statement of identity?'' The response to the question said that it could not, but this response was not consistent with section 403(s)(2)(B) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 343(s)(2)(B)) and our regulations at 21 CFR 101.3(g). Thus, we are revising the guidance to state that the term ''dietary supplement'' may be used as the entire statement of identity for a dietary supplement and to explain the basis for that conclusion. We are also revising questions 1, 2, and 3 for clarity and consistency with 21 CFR 101.3(g) and FDA's guidance on statements of identity for conventional foods in ''A Food Labeling Guide: Guidance for Industry'' (available at *http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocuments RegulatoryInformation/default.htm*). The guidance announced in this notice revises the guidance dated April 2005.

This guidance is being implemented without prior public comment because the Agency has determined that such prior public participation is not feasible or appropriate (§ 10.115(g)(2)). The Agency made this determination because this guidance's primary revision of the existing guidance merely corrects an inaccurate statement to make the guidance consistent with the FD&C Act and FDA's regulations, and it would be inappropriate to solicit comment on whether or not a guidance should be consistent with requirements set forth in the statute and regulations. The guidance also contains other clarifying edits to existing guidance that do not set forth initial or changed interpretations of statutory or regulatory requirements. Although this guidance document is being implemented immediately, it remains subject to comment in accordance with the Agency's GGP regulation (§ 10.115(g)).

II. Electronic Access

Persons with access to the Internet may obtain the guidance at either *http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocuments RegulatoryInformation/default.htm* or *http://www.regulations.gov.* Use the FDA Web site listed in the previous sentence to find the most current version of the guidance.

Dated: March 2, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–04948 Filed 3–4–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–0001]

Orthopaedic and Rehabilitation Devices Panel of the Medical Devices 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: Orthopaedic and Rehabilitation Devices Panel of the Medical Devices 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 Wednesday, April 20, 2016, from 8 a.m. to 6 p.m.

Location: Hilton Washington, DC/North, Salons A, B, C, and D, 620 Perry Pkwy., Gaithersburg, MD 20877. The hotel telephone number is 301–977–8900.

Contact Person: S.J. Anderson, Center for Devices and Radiological Health, Food and Drug Administration, Bldg. 66, rm. 1643, 10903 New Hampshire Ave., Silver Spring, MD 20993, email: *Sara.Anderson@fda.hhs.gov,* 301 796–7047, 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, make recommendations, and vote on the premarket approval application for the Cartiva Synthetic Cartilage Implant (SCI), sponsored by Cartiva, Inc. The Cartiva Synthetic Cartilage Implant (SCI) is an organic polymer-based biomaterial to mimic biologic cartilage. The device is to be indicated for treatment of degenerative and post-traumatic arthritis in the first metatarsophalangeal joint in the presence of good bone stock along with the following clinical conditions: hallux valgus or hallux limitus, hallux rigidus, and an unstable or painful metatarsophalangeal joint.

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 April 13, 2016. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before April 5, 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 April 6, 2016.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact AnnMarie Williams at 301–796–5966 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 29, 2016.

Jill Hartzler Warner,

Associate Commissioner for Special Medical Programs.

[FR Doc. 2016–04927 Filed 3–4–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Health Resources and Services Administration (HRSA) will submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB). 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. To request a copy of the clearance requests submitted to OMB for review, email *paperwork@hrsa.gov* or call the HRSA Reports Clearance Office at (301) 443–1984.

DATES: *Deadline:* Comments on this ICR should be received no later than April 6, 2016.

ADDRESSES: Submit your comments to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to 202–395–5806. Please direct all correspondence to the ''attention of the desk officer for HRSA.''

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: Health Center Controlled Networks (OMB No. 0915–0360) Extension.

Abstract: One goal of the Health Resources and Services Administration (HRSA) is to ensure that all Health Center Program grantees effectively implement health information technology (HIT) systems that enable all providers to adopt and implement HIT, including Electronic Health Records (EHRs); to become meaningful users of EHRs and use HIT systems to increase access to care, improve quality of care, and reduce the costs of care delivered.

The Health Center Controlled Network (HCCN) Program serves as a major component of HRSA's HIT initiative to support these goals. The HCCN model focuses on the integration of certain functions and the sharing of skills, resources, and data to improve health center operations and care provision, and generating efficiencies and economies of scale. Through this grant, HCCNs will provide support for the adoption and implementation of HIT, including meaningful use of EHRs, to improve the quality of care provided by existing Health Center Program grantees (*i.e.,* Section 330 funded health centers) by engaging in the following program components:

- *Adoption and Implementation:* Assist participating health centers with effectively adopting and implementing certified EHR technology.
- *Meaningful Use:* Support participating health centers in meeting Meaningful Use requirements and accessing incentive payments under the Medicare and Medicaid Electronic Health Records Incentive Programs.
- *Quality Improvement (QI):* Advance participating health centers' QI initiatives to improve clinical and operational quality, including their obtaining of Patient Centered Medical Home (PCMH) recognition.

HRSA collects and evaluates network outcome measures. HRSA requires that HCCNs report such measures to HRSA in annual work plan updates as part of their annual, non-competing continuation progress reports through an electronic reporting system. The work plan includes information on grantees' plans and progress on the following:

- Adoption and Implementation of HIT (including EHR);
- Attainment of Meaningful Use Requirements; and
- Improvement of quality measures (*e.g.,* Healthy People 2020 clinical quality measures, PCMH recognition status, etc.).

The annual, non-competing continuation progress reports describe each grantee's progress in achieving key activity goals such as quality improvement, data access and exchange, efficiency and effectiveness of network services, and the ability to track and monitor patient outcomes, as well as emerging needs, challenges and barriers encountered customer satisfaction, and plans to meet goals for the next year. Grantees submit their work plan updates and annual, non-competing continuation progress reports each fiscal year of the grant; the submission and subsequent HRSA approval of each report triggers the budget period renewal and release of each subsequent year of funding.

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.

The annual estimate of burden is as follows:

Form name	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
Work Plan Update	43	1	43	10.9	468.7
Annual Progress Report	43	1	43	44.5	1913.5
Total	86				2382.2

Jackie Painter,

Director, Division of the Executive Secretariat.

[FR Doc. 2016–04984 Filed 3–4–16; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Bioreactors for Reparative Medicine (STTR).

Date: March 24, 2016.

Time: 1:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 7180, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Tony L Creazzo, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7180, Bethesda, MD 20892–7924, 301–435–0725, *creazzotl@mail.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Bioreactors for Reparative Medicine (SBIR).

Date: March 24, 2016.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 7180, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Tony L Creazzo, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7180, Bethesda, MD 20892–7924, 301–435–0725, *creazzotl@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: March 1, 2016.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–04915 Filed 3–4–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting. The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; PAR–13–305 Collaborative Interdisciplinary Team Science in NIDDK Research Areas (R24): Irritable Bowel Disease.

Date: April 11, 2016.

Time: 1:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: ANN A. JERKINS, Ph.D., SCIENTIFIC REVIEW OFFICER, REVIEW BRANCH, DEA, NIDDK, NATIONAL INSTITUTES OF HEALTH, ROOM 7019, 6707 DEMOCRACY BOULEVARD, BETHESDA, MD 20892–5452, 301–594–2242, *jerkinsa@niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: March 1, 2016.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–04920 Filed 3–4–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting. The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Ancillary Study on NAFLD.

Date: April 19, 2016.

Time: 4:30 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: MARIA E. DAVILA–BLOOM, Ph.D., SCIENTIFIC REVIEW OFFICER, REVIEW BRANCH, DEA, NIDDK, NATIONAL INSTITUTES OF HEALTH, ROOM 758, 6707 DEMOCRACY BOULEVARD, BETHESDA, MD 20892–5452, (301) 594–7637, *davila-bloomm@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: March 1, 2016.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–04919 Filed 3–4–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, AREA: Oncological Sciences Grant Applications.

Date: March 29, 2016.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Svetlana Kotliarova, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, Bethesda, MD 20892, 301–594–7945, *kotliars@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, RFA–RM15–005: Transformative Research Award Review.

Date: March 30, 2016.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Raymond Jacobson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5858, MSC 7849, Bethesda, MD 20892, 301–996–7702, *jacobsonrh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, RFA–RM15–005: Transformative Research Award Review.

Date: March 30, 2016.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Raymond Jacobson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5858, MSC 7849, Bethesda, MD 20892, 301–996–7702, *jacobsonrh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Fellowship: Immunology.

Date: March 30, 2016.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Alok Mulky, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4203, Bethesda, MD 20892, (301) 435–3566, *alok.mulky@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Business: Musculoskeletal Rehabilitation Sciences.

Date: March 30, 2016.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Maria Nurminskaya, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, Bethesda, MD 20892, (301) 435–1222, *nurminskayam@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Training in Comparative and Veterinary Medicine.

Date: March 30, 2016.

Time: 11:00 a.m. to 2:00 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: Maria DeBernardi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6158, MSC 7892, Bethesda, MD 20892, 301–435–1355, *debernardima@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Neurosciences.

Date: March 30, 2016.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Inese Z Beitins, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6152, MSC 7892, Bethesda, MD 20892, 301–435–1034, *beitinsi@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–15–024: Molecular Profiles and Biomarkers of Food and Nutrient Intake.

Date: March 30, 2016.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Gregory S Shelness, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6156, Bethesda, MD 20892–7892, (301) 435–0492, *shelnessgs@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Healthcare Delivery and Methodologies AREA Review.

Date: March 30, 2016.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: 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*.

(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: March 1, 2016.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–04914 Filed 3–4–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel Review of RFADE16–007: Novel or Enhanced Dental Restorative Materials for Class V Lesions.

Date: March 22, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892.

Contact Person: Victor Henriquez, Ph.D., Scientific Review Officer, DEA/SRB/NIDCR, 6701 Democracy Blvd., Room 668, Bethesda, MD 20892–4878, 301–451–2405, *henriquv@nidcr.nih.gov*.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel Review of Loan Repayment Program (LRP) Clinical (L30) and Pediatric (L40) applications.

Date: March 30–31, 2016.

Time: 12:00 a.m. to 11:59 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Latarsha J. Carithers, Ph.D., Program Director, Division of Extramural Activities, NIDCR, 6701 Democracy Boulevard, Suite 672, Bethesda, MD 20892, 301–594–4859, *latarsha.carithers@nih.gov*.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel Review of Oral Mucosal vaccination for HIV Prevention Applications.

Date: March 30, 2016.

Time: 12:00 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: Victor Henriquez, Ph.D., Scientific Review Officer, DEA/SRB/NIDCR, 6701 Democracy Blvd., Room 668, Bethesda, MD 20892–4878, 301–451–2405, *henriquv@nidcr.nih.gov*.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, NIDCR Oral Immunoplasticity and HIV.

Date: April 6, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Crina Frincu, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Dental and Craniofacial Research, National Institutes of Health, 6701 Democracy Blvd., Suite 662, Bethesda, MD 20892 *cfrincu@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: March 1, 2016.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–04918 Filed 3–4–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel; NIH Pathway to Independence Awards.

Date: March 24, 2016.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS/National Institutes of Health, Keystone Building, 530 Davis Drive, Research Triangle Park, NC 27709.

Contact Person: Leroy Worth, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30/Room 3171, Research Triangle Park, NC 27709, (919) 541–0670, *worth@niehs.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: February 29, 2016.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–04922 Filed 3–4–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel; Training Careers in Environmental Health Sciences.

Date: March 21, 2016.

Time: 1:00 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS/National Institutes of Health, Keystone Building, 530 Davis Drive, Research Triangle Park, NC 27709.

Contact Person: Linda K. Bass, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, (919) 541–1307, *bass@niehs.nih.gov.*

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel; Clinical Research Training in Environmental Health Sciences.

Date: March 21, 2016.

Time: 2:30 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS/National Institutes of Health, Keystone Building, 530 Davis Drive, Research Triangle Park, NC 27709.

Contact Person: Linda K. Bass, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, (919) 541–1307, *bass@niehs.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: February 29, 2016.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–04921 Filed 3–4–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Workshop on Shift Work at Night, Artificial Light at Night, and Circadian Disruption; Notice of Public Meeting; Registration Information; Amended Notice

SUMMARY: This notice amends **Federal Register** notice 81 FR 7354 published February 11, 2016, announcing the public meeting and registration information for the Workshop on Shift Work at Night, Artificial Light at Night, and Circadian Disruption. Registration is available to attend the workshop in-person both March 10 and March 11 and will close prior to March 4 if space capacity at NIEHS is reached. Registration to view the webcast is requested, but not required. All other information in the original notice has not changed. Information on the workshop and registration is available at *http://ntp.niehs.nih.gov/go/workshop_ALAN.*

DATES: *Meeting Registration:* February 1, 2016 through March 4, 2016. Registration to attend the workshop in-person is now available for March 10 and 11, and will close prior to March 4 if space capacity at NIEHS is reached. The webcast will still be available on both March 10 and 11. Registration to view the workshop via webcast will remain open through March 11, 2016.

Dated: February 29, 2016.

John R. Bucher,

Associate Director, National Toxicology Program.

[FR Doc. 2016–04902 Filed 3–4–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; 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 section 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material,

and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Environmental Chemical Analysis of Human Biospecimens for the Division of Intramural Population Health Research.

Date: March 23, 2016.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Sathasiva B. Kandasamy, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Child Health and Human Development, NIH, 6100 Executive Boulevard, Room 5B01, Bethesda, MD 20892–9304, (301) 435–6680, *skandasa@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: March 1, 2016.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–04916 Filed 3–4–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; 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 section 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis, Tools for Assessment and Improvement of Neurologic Outcomes.

Date: March 30, 2016.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NICHD, 6100 Executive Blvd., Rockville, MD 20892, (Telephone Conference Call).

Contact Person: SATHASIVA B. KANDASAMY, Ph.D., SCIENTIFIC REVIEW ADMINISTRATOR, SCIENTIFIC REVIEW BRANCH, NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT, 6100 EXECUTIVE BOULEVARD, Room 5B01, BETHESDA, MD 20892–9304, (301) 435–6680, *skandasa@mail.nih.gov.*

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: April 1, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: RITA ANAND, Ph.D., SCIENTIFIC REVIEW OFFICER, SCIENTIFIC REVIEW BRANCH, NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT, NIH, 6100 EXECUTIVE BLVD. ROOM 5B01, BETHESDA, MD 20892, 301–496–1487, *anandr@mail.nih.gov.*

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: April 4, 2016.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: SATHASIVA B. KANDASAMY, Ph.D., SCIENTIFIC REVIEW ADMINISTRATOR, SCIENTIFIC REVIEW BRANCH, NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT, 6100 EXECUTIVE BOULEVARD, Room 5B01, BETHESDA, MD 20892–9304, (301) 435–6680, *skandasa@mail.nih.gov.*

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: April 11–12, 2016.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard by Marriott Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Priscah Mujuru, BSN, DRPH, MPH, COHNS, RN, Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Boulevard, Suite 5B01, Bethesda, MD 20892–7510, 301–435–6908, *mujurup@mail.nih.gov.*

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: April 13, 2016.

Time: 9:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: PETER ZELAZOWSKI, Ph.D., SCIENTIFIC REVIEW OFFICER, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Boulevard, Rm. 5B01, Bethesda, MD 20892–7510, 301–435–6902, *peter.zelazowski@nih.gov.*

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; P2C (Popul CTR) Infrastructure Review Meeting.

Date: April 15, 2016.

Time: 8:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: CARLA T. WALLS, Ph.D., SCIENTIFIC REVIEW ADMINISTRATOR, SCIENTIFIC REVIEW BRANCH, NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT, NIH, 6100 EXECUTIVE BLVD., ROOM 5B01, BETHESDA, MD 20892, (301) 435–6898, *wallsc@mail.nih.gov.*

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Developmental Biology Bioinformatics Resources.

Date: April 20, 2016.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Cathy J. Wedeen, Ph.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, DHHS, 6100 Executive Blvd., Room 5B01–G, Bethesda, MD 20892, 301–435–6878, *wedeenc@mail.nih.gov.*

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: May 3–4, 2016.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: PETER ZELAZOWSKI, Ph.D., SCIENTIFIC REVIEW OFFICER, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Boulevard, Rm. 5B01, Bethesda, MD 20892–7510, 301–435–6902, *peter.zelazowski@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: March 1, 2016.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–04917 Filed 3–4–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2016–0002]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final Notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

DATES: The effective date of May 16, 2016 which has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *www.msc.fema.gov* by the effective date indicated above.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: February 2, 2016.

Roy E. Wright,

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

I. Watershed-based studies:

Community	Community map repository address
Lower Wisconsin Watershed	
Columbia County, Wisconsin, and Incorporated Areas Docket No.: FEMA–B–1434	
City of Columbus	City Hall, 105 North Dickason Boulevard, Columbus, WI 53925.
City of Lodi	City Hall, 130 South Main Street, Lodi, WI 53555.
City of Portage	City Hall, 115 West Pleasant Street, Portage, WI 53901.
City of Wisconsin Dells	City Hall, 300 La Crosse Street, Wisconsin Dells, WI 53965.
Unincorporated Areas of Columbia County	Carl C. Frederick Administration Building, 400 DeWitt Street, Portage, WI 53901.
Village of Cambria	Village Hall, 111 West Edgewater Street, Cambria, WI 53923.
Village of Doylestown	Village Hall, W3005 Railroad Street, Doylestown, WI 53928.
Village of Fall River	Village Hall, 641 South Main Street, Fall River, WI 53932.
Village of Pardeeville	Village Hall, 114 Lake Street, Pardeeville, WI 53954.
Village of Poynette	Village Hall, 106 South Main Street, Poynette, WI 53955.
Village of Wyocena	Village Hall, 165 East Dodge Street, Wyocena, WI 53969.

II. Non-watershed-based studies:

Community	Community map repository address
Logan County, Colorado, and Incorporated Areas Docket No.: FEMA–B–1457	
City of Sterling	Planning and Zoning Division, 421 North Fourth Street, Sterling, CO 80751.
Town of Crook	Town Hall, 212 Fourth Street, Crook, CO 80726.

Community	Community map repository address
Town of Iliff	Town Hall, 405 West Second Avenue, Iliff, CO 80736.
Town of Merino	Town Hall, 206 Colorado Avenue, Merino, CO 80741.
Unincorporated Areas of Logan County	Planning and Zoning Department, 315 Main Street, Sterling, CO 80751.
City of Hampton, Virginia (Independent City) Docket No.: FEMA–B–1451	
City of Hampton	Public Works Engineering, 22 Lincoln Street, Hampton, VA 23669.
King and Queen County, Virginia, and Incorporated Areas Docket No.: FEMA–B–1359	
Unincorporated Areas of King and Queen County	King and Queen County Complex Building, County Administrator's Office, 242 Allens Circle, Suite L, King and Queen Court House, VA 23085.

[FR Doc. 2016–04885 Filed 3–4–16; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2016–0002]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

DATES: The effective date of June 2, 2016 which has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *www.msc.fema.gov* by the effective date indicated above.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: February 4, 2016.

Roy E. Wright,

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

Community	Community map repository address
Lycoming County, Pennsylvania (All Jurisdictions) Docket No.: FEMA–B–1510	
Borough of Hughesville	Borough Office, 147 South 5th Street, Hughesville, PA 17737.
Borough of Jersey Shore	Borough Office, 232 Smith Street, Jersey Shore, PA 17740.
Borough of Montgomery	Borough Hall, 35 South Main Street, Montgomery, PA 17752.
Borough of Montoursville	Borough Hall, 617 North Loyalsock Avenue, Montoursville, PA 17754.
Borough of Muncy	Borough Hall, 14 North Washington Street, Muncy, PA 17756.
Borough of Picture Rocks	Borough Building, 113 North Main Street, Picture Rocks, PA 17762.
Borough of Salladasburg	145 Black Horse Alley, Salladasburg, PA 17740.

Community	Community map repository address
Borough of South Williamsport	Borough Building, 329 West Southern Avenue, South Williamsport, PA 17702.
City of Williamsport	City Hall, 245 West 4th Street, Williamsport, PA 17701.
Township of Anthony	Anthony Township Building, 402 Dutch Hill Road, Cogan Station, PA 17725.
Township of Armstrong	Armstrong Township Building, 502 Waterdale Road, Williamsport, PA 17702.
Township of Bastress	Bastress Township Building, 518 Cold Water Town Road, Williamsport, PA 17702.
Township of Brady	Brady Township Building, 1986 Elimsport Road, Montgomery, PA 17752.
Township of Brown	18254 Route 414 Highway, Cedar Run, PA 17727.
Township of Cascade	Cascade Township Building, 1456 Kellyburg Road, Trout Run, PA 17771.
Township of Clinton	Clinton Township Building, 2106 State Route 54, Montgomery, PA 17752.
Township of Cogan House	Cogan House Township Building, 4609 Route 184 Highway, Trout Run, PA 17771.
Township of Cummings	Cummings Township Building, 10978 Route 44, Waterville, PA 17776.
Township of Eldred	Eldred Township Fire Company Building, 5558 Warrensville Road, Montoursville, PA 17754.
Township of Fairfield	Fairfield Township Building, 834 Fairfield Church Road, Montoursville, PA 17754.
Township of Franklin	Franklin Township Building, 61 School Lane, Lairdsville, PA 17742.
Township of Gamble	Gamble Township Building, 17 Beech Valley Road, Trout Run, PA 17771.
Township of Hepburn	Hepburn Township Office, 615 State Route 973 East Highway, Cogan Station, PA 17728.
Township of Jackson	Jackson Township Building, 3809 Williamson Trail, Liberty, PA 16930.
Township of Jordan	Jordan Township Building, 4298 Route 42 Highway, Unityville, PA 17774.
Township of Lewis	Lewis Township Building, 69 Main Street, Trout Run, PA 17771.
Township of Limestone	Limestone Township Building, 6253 South Route 44 Highway, Jersey Shore, PA 17740.
Township of Loyalsock	Loyalsock Township Building, 2501 East 3rd Street, Williamsport, PA 17701.
Township of Lycoming	Lycoming Township Municipal Building, 328 Dauber Road, Cogan Station, PA 17728.
Township of McHenry	McHenry Township Community Center, 145 Railroad Street, Cammal, PA 17723.
Township of McIntyre	McIntyre Township Building, 10975 Route 14, Ralston, PA 17763.
Township of McNett	McNett Township Building, 1785 Yorktown Road, Roaring Branch, PA 17765.
Township of Mifflin	Mifflin Township Building, 106 First Fork Road, Jersey Shore, PA 17740.
Township of Mill Creek	Mill Creek Township Building, 2063 Woodley Hollow Road, Montoursville, PA 17754.
Township of Moreland	Moreland Township Building, 1220 Moreland Township Road, Muncy, PA 17756.
Township of Muncy	Muncy Fire Hall, 1922 Pond Road, Pennsdale, PA 17756.
Township of Muncy Creek	Muncy Creek Township Building, 575 Route 442 Highway, Muncy, PA 17756.
Township of Old Lycoming	Old Lycoming Township Municipal Office, 1951 Green Avenue, Williamsport, PA 17701.
Township of Penn	Penn Township Building, 4600 Beaver Lake Road, Hughesville, PA 17737.
Township of Piatt	Piatt Township Building, 9687 North Route 220 Highway, Jersey Shore, PA 17740.
Township of Pine	Pine Township Building, 925 Oregon Hill Road, Morris, PA 16938.
Township of Plunketts Creek	Plunketts Creek Township Building, 179 Dunwoody Road, Williamsport, PA 17701.
Township of Porter	Porter Township Building, 5 Shaffer Lane, Jersey Shore, PA 17740.
Township of Shrewsbury	Shrewsbury Township Building, 143 Point Bethel Road, Hughesville, PA 17737.
Township of Susquehanna	Susquehanna Township Office Building, 91 East Village Drive, Williamsport, PA 17702.
Township of Upper Fairfield	Upper Fairfield Township Building, 4090 Route 87 Highway, Montoursville, PA 17754.
Township of Washington	Washington Township Building, 15973 South Route 44 Highway, Allenwood, PA 17810.
Township of Watson	Watson Township Building, 4635 North State Route 44, Jersey Shore, PA 17740.
Township of Wolf	Wolf Township Building, 695 Route 405 Highway, Hughesville, PA 17737.

Community	Community map repository address
Township of Woodward	Woodward Township Building, 4910 South Route 220 Highway, Linden, PA 17744.

[FR Doc. 2016–04886 Filed 3–4–16; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2016–0002; Internal Agency Docket No. FEMA–B–1602]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before June 2, 2016.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1602, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *http://floodsrp.org/pdfs/srp_fact_sheet.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: February 4, 2016.

Roy E. Wright,

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

I. Watershed-based studies:

Community	Community map repository address
Lower Missouri-Moreau Watershed	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Howard County, Missouri, and Incorporated Areas	
City of Franklin	City Hall, 410 Crews Avenue, Franklin, MO 65250.
City of Glasgow	City Hall, 100 Market Street, Glasgow, MO 65254.
City of New Franklin	City Hall, 130 East Broadway, New Franklin, MO 65274.
Unincorporated Areas of Howard County	County Courthouse, 1 Courthouse Square, Fayette, MO 65248.

II. Non-watershed-based studies:

Community	Community map repository address
Del Norte County, California and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Project: 11–09–0846S Preliminary Date: September 1, 2015	
City of Crescent City	Public Works Department, 377 J Street, Crescent City, CA 95531.
Unincorporated Areas of Del Norte County	Community Development Department, 981 H Street, Suite 110, Crescent City, CA 95531.
San Luis Obispo County, California and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Project: 11–09–0855S Preliminary Date: November 13, 2015	
City of Grover Beach	City Hall, 154 South Eighth Street, Grover Beach, CA 93433.
City of Morro Bay	Public Works & Community Development Department, 955 Shasta Avenue, Morro Bay, CA 93442.
City of Pismo Beach	City Hall, 760 Mattie Road, Pismo Beach, CA 93449.
Unincorporated Areas of San Luis Obispo County	County Government Center, Public Works Department, 1055 Monterey Street, Room 207, San Luis Obispo, CA 93408.
Cass County, Iowa, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Project: 15–07–0895S Preliminary Date: June 22, 2015	
City of Anita	City Hall, 744 Main Street, Anita, IA 50020.
City of Atlantic	City Hall, 23 East 4th Street, Atlantic, IA 50022.
City of Cumberland	City Hall, 207 Main Street, Cumberland, IA 50843.
City of Griswold	City Building, 601 2nd Street, Griswold, IA 51535.
City of Lewis	City Hall, 416 West Main Street, Lewis, IA 51544.
City of Marne	City Council Chambers, 403 Washington Street, Marne, IA 51552.
City of Massena	City Hall, 100 Main Street, Massena, IA 50853.
City of Wiota	City Hall, 311 Center Street, Wiota, IA 50274.
Unincorporated Areas of Cass County	Cass County Courthouse, Engineer's Office, 5 West 7th Street, Atlantic, IA 50022.
Mason County, Illinois and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Project:11–05–5337S Preliminary Date: October 16, 2015	
Unincorporated Areas of Mason County	Mason County Courthouse, County Zoning Office, 125 North Plum Street, Havana, IL 62644.
Pocahontas County, Iowa, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Project: 15–07–0902S Preliminary Date: July 31, 2015	
City of Fonda	City Hall, 104 West 2nd Street, Fonda, IA 50540.
City of Havelock	City Hall, 858 Wood Street, Havelock, IA 50546.
City of Laurens	City Hall, 272 North 3rd Street, Laurens, IA 50554.

Community	Community map repository address
City of Pocahontas	City Hall, 23 West Elm Avenue, Pocahontas, IA 50574.
City of Rolfe	City Hall, 319 Garfield Street, Rolfe, IA 50581.
Unincorporated Areas of Pocahontas County	Pocahontas County Courthouse, 99 Court Square, Pocahontas, IA 50574.

[FR Doc. 2016–04887 Filed 3–4–16; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2016–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: The effective date for each LOMR is indicated in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *www.msc.fema.gov*.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html*.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov*.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: February 4, 2016.

Roy E. Wright,

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

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Idaho:					
Ada (FEMA Docket No.: B–1531).	City of Eagle (15–10–0917P).	The Honorable James Reynolds, Mayor, City of Eagle, 660 East Civic Lane, Eagle, ID 83616.	660 East Civic Lane, Eagle, ID 83616.	Nov. 5, 2015	160003
Ada (FEMA Docket No.: B–1531).	Unincorporated areas of Ada County (15–10–0917P).	The Honorable Dave Case, District Commissioner, Ada County, 200 West Front Street, 3rd Floor, Boise, ID 83702.	200 West Front Street, 3rd Floor, Boise, ID 83702.	Nov. 5, 2015	160001
Ada (FEMA Docket No.: B–1544).	City of Kuna (15–10–0775P).	The Honorable W. Greg Nelson, Mayor, City of Kuna, 763 West Avalon Street, Kuna, ID 83634.	City Hall, 329 West 3rd Street, Kuna, ID 83634.	Dec. 24, 2015	160174
Ada (FEMA Docket No.: B–1544).	Unincorporated areas of Ada County (15–10–0775P).	The Honorable Dave Case, District Commissioner, Ada County, 200 West Front Street, 3rd Floor, Boise, ID 83702.	200 West Front Street, 3rd Floor, Boise, ID 83702.	Dec. 24, 2015	160001
Illinois:					
DuPage (FEMA Docket No.: B–1544).	City of Naperville (15–05–2352P).	The Honorable Steve Chirico, Mayor, City of Naperville, 400 South Eagle Street, Naperville, IL 60540.	City Hall, 400 South Eagle Street, Naperville, IL 60540.	Dec. 3, 2015	170213

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Kane (FEMA Docket No.: B–1531).	City of Elgin (15–05–1616P).	The Honorable Dave Kaptain, Mayor, City of Elgin, 150 Dexter Court, Elgin, IL 60120.	Public Works Department, Engineering Department, 150 Dexter Court, Elgin, IL 60120.	Nov. 3, 2015	170087
Kane (FEMA Docket No.: B–1531).	Unincorporated areas of Kane County (15–05–1616P).	The Honorable Christopher Lauzen, Kane County Chairman, Kane County Government Center, 719 South Batavia Avenue, Building A, Geneva, IL 60134.	Kane County Government Center, Water Resources Department, 719 South Batavia Avenue, Building A, Geneva, IL 60134.	Nov. 3, 2015	170896
Indiana:					
Allen (FEMA Docket No.: B–1533).	Unincorporated areas of Allen County (15–05–5235P).	Commissioner Nelson Peters, Allen County, Board of Commissioners, Citizens Square, 200 East Berry Street, Suite 410, Fort Wayne, IN 46802.	Department of Planning Services, 200 East Berry Street, Suite 150, Fort Wayne, IN 46802.	Nov. 27, 2015	180302
Rush (FEMA Docket No.: B–1531).	City of Rushville (15–05–3870X).	The Honorable Michael P. Pavey, Mayor, City of Rushville, 133 West 1st Street, Rushville, IN 46173.	Rush County Courthouse, Area Plan Commission, 101 East 2nd Street, Room 211, Rushville, IN 46173.	Nov. 11, 2015	180223
Rush (FEMA Docket No.: B–1531).	Unincorporated areas of Rush County (15–05–3870X).	Mr. Bruce Levi, Chairman, Rush County Board of Commissioners, Rush County Courthouse, 101 East 2nd Street, Room 102, Rushville, IN 46173.	Rush County Courthouse, Area Plan Commission, 101 East 2nd Street, Room 211, Rushville, IN 46173.	Nov. 11, 2015	180421
Kansas:					
Johnson (FEMA Docket No.: B–1544).	City of Olathe (15–07–1599P).	The Honorable Michael Copeland, Mayor, City of Olathe, P.O. Box 768, Olathe, KS 66051.	Olathe Planning Office, 100 West Santa Fe Drive, Olathe, KS 66061.	Dec. 4, 2015	200173
Shawnee (FEMA Docket No.: B–1531).	Unincorporated areas of Shawnee County (15–07–0760P).	The Honorable Kevin Cook, Chair—Shawnee County Commissioners, County Courthouse, 200 Southeast 7th Street, Topeka, KS 66603.	County Courthouse, 200 Southeast 7th Street, Topeka, KS 66603.	Nov. 10, 2015	200331
Minnesota:					
McLeod (FEMA Docket No.: B–1544).	City of Winsted (15–05–4471P).	The Honorable Steve Stotko, Mayor, City of Winsted, City Hall, 201 1st Street North, Winsted, MN 55395.	McLeod County Sheriff's Office, 801 10th Street East, Glencoe, MN 55336.	Dec. 10, 2015	270614
McLeod (FEMA Docket No.: B–1544).	Unincorporated areas of McLeod County (15–05–4471P).	The Honorable Paul Wright, Chair, Board of Commissioners, McLeod County, McLeod County Courthouse, 830 East 11th Street, Glencoe, MN 55336.	McLeod County Sheriff's Office, 801 10th Street East, Glencoe, MN 55336.	Dec. 10, 2015	270616
Missouri:					
Jackson (FEMA Docket No.: B–1533).	City of Lee's Summit (15–07–1190P).	The Honorable Randy Rhoads, Mayor, City of Lee's Summit, 220 Southeast Green Street, Lee's Summit, MO 64063.	City Hall, 207 Southwest Market Street, Lee's Summit, MO 64063.	Nov. 26, 2015	290174
Jefferson (FEMA Docket No.: B–1531).	City of Crystal City (15–07–0050P).	The Honorable Thomas V Schilly, Mayor, City of Crystal City, 130 Mississippi Avenue, Crystal City, MO 63019.	130 Mississippi Avenue, Crystal City, MO 63019.	Nov. 9, 2015	290189
Jefferson (FEMA Docket No.: B–1531).	City of Festus (15–07–0050P).	The Honorable Mike Cage, Mayor, City of Festus, 711 West Main Street, Festus, MO 63028.	Festus Public Works Department, 950 North 5th Street, Festus, MO 63028.	Nov. 9, 2015	290191
Jefferson (FEMA Docket No.: B–1533).	Unincorporated areas of Jefferson County (15–07–0620P).	Mr. Ken Walker, Jefferson County Executive, Jefferson County Administration Center, 729 Maple Street, Suite G30, Hillsboro, MO 63050.	729 Maple Street, Suite G30, Hillsboro, MO 63050.	Nov. 13, 2015	290808
Ohio:					
Cuyahoga (FEMA Docket No.: B–1531).	City of Strongsville (15–05–3955P).	The Honorable Thomas P. Perciak, Mayor, City of Strongsville, 16099 Foltz Parkway, Strongsville, OH 44149.	City Hall, 16099 Foltz Parkway, Strongsville, OH 44149.	Nov. 6, 2015	390132
Texas:					
Bowie (FEMA Docket No.: B–1544).	City of Texarkana (15–06–1450P).	The Honorable Bob Bruggeman, Mayor, City of Texarkana, 220 Texas Boulevard, Texarkana, TX 75501.	220 Texas Boulevard, Texarkana, TX 75501.	Dec. 9, 2015	480060
Dallas (FEMA Docket No.: B–1531).	City of Hutchins (14–06–3724P).	The Honorable Mario Vasquez, Mayor, City of Hutchins, 321 North Main Street, Hutchins, TX 75141.	City Hall, 321 North Main Street, Hutchins, TX 75141.	Nov. 6, 2015	480179
Dallas (FEMA Docket No.: B–1531).	City of Wilmer (14–06–3724P).	The Honorable Casey Burgess, Mayor, City of Wilmer, 128 North Dallas Avenue, Wilmer, TX 75172.	City Hall, 300 Country Club Road, Wylie, TX 75098.	Nov. 6, 2015	480190
Dallas (FEMA Docket No.: B–1531).	Unincorporated areas of Dallas County (14–06–3724P).	The Honorable Clay L. Jenkins, Presiding Officer, County Commissioner Court, 411 Elm Street, Dallas, TX 75202.	Dallas County Records Building, 509 Main Street, Dallas, TX 75202.	Nov. 6, 2015	480165
Utah:					
Uintah (FEMA Docket No.: B–1533).	City of Vernal (14–08–0909P).	The Honorable Sonja Norton, Mayor, City of Vernal, 374 East Main Street, Vernal, UT 84078.	Vernal Administrative Office, 447 East Main Street, Vernal, UT 84078.	Nov. 25, 2015	490149
Uintah (FEMA Docket No.: B–1533).	Unincorporated areas of Uintah County (14–08–0909P).	The Honorable Mike McKee, Commissioner, Uintah County, 152 East 100 North, Vernal, UT 84078.	152 East 100 North, Vernal, UT 84078.	Nov. 25, 2015	490147
Virginia:					
Prince William (FEMA Docket No.: B–1533).	City of Manassas (15–03–1081P).	The Honorable Harry J. Parrish, II, Mayor, City of Manassas, 9027 Center Street, Manassas, VA 20110.	Manassas City Engineer's Office, 9027 Center Street, Suite 203, Manassas, VA 20110.	Nov. 19, 2015	510122

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Prince William (FEMA Docket No.: B–1533).	Unincorporated areas of Prince William County (15–03–1081P).	Mr. Corey A. Stewart, Chairman, Board of County Supervisors, 1 County Complex Court, Prince William, VA 22192.	Prince William County Department of Public Works, Watershed Management Division, 4379 Ridgewood Center Drive, Prince William, VA 22192.	Nov. 19, 2015	510119
Washington:					
Lewis (FEMA Docket No.: B–1544).	City of Napavine (15–10–0078P).	The Honorable John Sayers, Mayor, City of Napavine, 407 Birch Avenue Southwest, P.O. Box 810, Napavine, WA 98565.	City Hall, 214 2nd Avenue Northeast, Napavine, WA 98565.	Dec. 18, 2015	530254
Lewis (FEMA Docket No.: B–1544).	Unincorporated areas of Lewis County (15–10–0078P).	The Honorable Bill Schulte, Lewis County Commissioner, District #2, 351 Northwest North Street, Chehalis, WA 98532.	Division of Public Services, 350 North Market Boulevard, Chehalis, WA 98532.	Dec. 18, 2015	530102
Wisconsin:					
Milwaukee (FEMA Docket No.: B–1544).	City of Oak Creek (15–05–2729P).	The Honorable Stephen Scaffidi, Mayor, City of Oak Creek, 8460 South Howell Avenue, P.O. Box 27, Oak Creek, WI 53154.	City Hall, 8640 South Howell Avenue, Oak Creek, WI 53154.	Dec. 31, 2015	550279
St. Croix (FEMA Docket No.: B–1544).	City of River Falls (15–05–3405P).	The Honorable Dan Toland, Mayor, City of River Falls, City Hall, 222 Lewis Street, River Falls, WI 54022.	City Hall, 123 East Elm Street, River Falls, WI 54022.	Dec. 31, 2015	550330
Trempealeau (FEMA Docket No.: B–1531).	Village of Strum (15–05–2619P).	The Honorable Dean Boehne, President, Village of Strum, 202 South 5th Avenue, P.O. Box 25, Strum, WI 54770.	202 South 5th Avenue, Strum, WI 54770.	Nov. 13, 2015	555583
Trempealeau (FEMA Docket No.: B–1531).	Unincorporated areas of Trempealeau County (15–05–2619P).	The Honorable Richard Miller, County Board Chairman, Trempealeau County, 36245 Main Street, Whitehall, WI 54773.	36245 Main Street, Whitehall, WI 54773.	Nov. 13, 2015	555585

[FR Doc. 2016–04890 Filed 3–4–16; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2016–0002]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

DATES: The effective date of May 2, 2016 which has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *www.msc.fema.gov* by the effective date indicated above.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: February 4, 2016.

Roy E. Wright,

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

I. Watershed-based studies:

Community	Community map repository address
Upper Choctawhatchee Watershed Coffee County, Alabama, and Incorporated Areas Docket No.: FEMA–B–1461	
City of Enterprise	City Hall, 501 South Main Street, Enterprise, AL 36330.
Town of New Brockton	Town Hall, 706 East McKinnon Street, New Brockton, AL 36351.
Unincorporated Areas of Coffee County	8 County Complex, 1065 East McKinnon Street, New Brockton, AL 36351.
Dale County, Alabama, and Incorporated Areas Docket No.: FEMA–B–1461	
City of Daleville	City Hall, 740 South Daleville Avenue, Daleville, AL 36322.
City of Enterprise	City Hall, 501 South Main Street, Enterprise, AL 36330.
City of Fort Rucker	Emergency Management Agency, 453 Novosel Street, Building 114, Fort Rucker, AL 36362.
City of Level Plains	City Hall, 1708 Joe Bruer Road, Daleville, AL 36322.
City of Midland City	City Hall, 1385 Hinton Waters Avenue, Midland City, AL 36350.
City of Ozark	City Hall, 275 North Union Avenue, Ozark, AL 36360.
Town of Ariton	Town Hall, 6 East Main Street, Ariton, AL 36311.
Town of Clayhatchee	Town Hall, 1 West Main Street, Daleville, AL 36322.
Town of Newton	Town Hall, 209 Oates Drive, Newton, AL 36352.
Town of Pinckard	Town Hall, 1309 East Highway 134, Pinckard, AL 36371.
Unincorporated Areas of Dale County	Dale County Courthouse, 100 East Court Square, Ozark, AL 36360.
Geneva County, Alabama, and Incorporated Areas Docket No.: FEMA–B–1461	
City of Geneva	City Hall, 517 South Commerce Street, Geneva, AL 36340.
City of Hartford	City Hall, 203 West Main Street, Hartford, AL 36344.
City of Slocomb	City Hall, 263 East Lawrence Harris Highway, Slocomb, AL 36375.
Town of Coffee Springs	Town Office, 222 East Spring Street, Coffee Springs, AL 36318.
Town of Malvern	Town Hall, 312 South Main Street, Malvern, AL 36349.
Unincorporated Areas of Geneva County	Geneva County Emergency Management Agency, 200 South Commerce Street, Geneva, AL 36340.
Houston County, Alabama, and Incorporated Areas Docket No.: FEMA B–1461	
Unincorporated Areas of Houston County	Houston County Engineer's Office, 2400 Columbia Highway, Dothan, AL 36303.
East Nishnabotna Watershed Audubon County, Iowa, and Incorporated Areas Docket No.: FEMA–B–1436	
City of Audubon	City Hall, 410 North Park Place, Audubon, IA 50025.
City of Brayton	City Hall, 202 County Trunk Road, Brayton, IA 50042.
City of Exira	City Hall, 108 East Washington Street, Exira, IA 50076.
City of Gray	Audubon County Courthouse, 318 Leroy Street, Suite 4, Audubon, IA 50025.
City of Kimballton	City Hall, 116 North Main Street, Kimballton, IA 51543.
Unincorporated Areas of Audubon County	Audubon County Courthouse, 318 Leroy Street, Suite 4, Audubon, IA 50025.
Montgomery County, Iowa, and Incorporated Areas Docket No.: FEMA–B–1436	
City of Coburg	Montgomery County Courthouse, 105 East Coolbaugh Street, Red Oak, IA 51566.
City of Elliott	Clerk's Office, 409 Main Street, Elliott, IA 51532.
City of Grant	Montgomery County Courthouse, 105 East Coolbaugh Street, Red Oak, IA 51566.
City of Red Oak	City Hall, 601 North 6th Street, Red Oak, IA 51566.
City of Stanton	City Hall, 310 Broad Avenue, Stanton, IA 51573.
City of Villisca	City Hall, 318 South 3rd Avenue, Villisca, IA 50864.
Unincorporated Areas of Montgomery County	Montgomery County Courthouse, 105 East Coolbaugh Street, Red Oak, IA 51566.
Lower Big Blue Watershed Gage County, Nebraska, and Incorporated Areas Docket No.: FEMA–B–1459	
Unincorporated Areas of Gage County	Gage County Highway Department, 823 South 8th Street, Beatrice, NE 68310.

Community	Community map repository address
Village of Barneston	Village Hall, 102 Grand Avenue, Barneston, NE 68309.

II. Non-watershed-based studies:

Community	Community map repository address
Socorro County, New Mexico, and Incorporated Areas Docket No.: FEMA B–1239	
City of Socorro	City Hall, 111 School of Mines Road, Socorro, NM 87801.
Navajo Nation	Socorro County Annex Building, 198 Neel Avenue, Socorro, NM 87801.
Pueblo of Acoma	Realty and Natural Resources Offices, 33 A Pinsbaari Drive, Pueblo of Acoma, NM 87034.
Unincorporated Areas of Socorro County	Socorro County Annex Building, 198 Neel Avenue, Socorro, NM 87801.
Village of Magdalena	City Hall, 108 North Main Street, Suite B, Magdalena, NM 87825.

[FR Doc. 2016–04878 Filed 3–4–16; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2015–0001]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final Notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

DATES: The effective date of June 16, 2016 which has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *www.msc.fema.gov* by the effective date indicated above.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: February 2, 2016.

Roy E. Wright,

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

I. Non-watershed-based studies:

Community	Community map repository address
Mohave County, Arizona, and Incorporated Areas Docket No.: FEMA–B–1502	
Unincorporated Areas of Mohave County	County Administration Building, 700 West Beale Street, Kingman, AZ 86401.

Community	Community map repository address
Cumberland County, New Jersey (All Jurisdictions) Docket No.: FEMA–B–1471	
Borough of Shiloh	Clerk's Office, 900 Main Street, Shiloh, NJ 08353.
City of Bridgeton	Construction Code Office, 181 East Commerce Street, Bridgeton, NJ 08302.
City of Millville	Clerk's Office, 12 South High Street, Millville, NJ 08332.
City of Vineland	Planning Department, 640 East Wood Street, Vineland, NJ 08360.
Township of Commercial	Commercial Township Code Enforcement Office, 1768 Main Street, Port Norris, NJ 08349.
Township of Deerfield	Deerfield Township Hall, 736 Landis Avenue, Rosenhayn, NJ 08352.
Township of Downe	Downe Township Hall, 288 Main Street, Newport, NJ 08345.
Township of Fairfield	Fairfield Township Construction Office, 70 Fairton Gouldtown Road, Fairton, NJ 08320.
Township of Greenwich	Emergency Management Building, 1000 Ye Greate Street, Greenwich, NJ 08323.
Township of Hopewell	Hopewell Township Municipal Building, 590 Shiloh Pike, Bridgeton, NJ 08302.
Township of Lawrence	Lawrence Township Construction Code Office, 357 Main Street, Cedarville, NJ 08311.
Township of Maurice River	Maurice River Township Construction and Zoning Office, 590 Main Street, Leesburg, NJ 08327.
Township of Stow Creek	Stow Creek Township Clerk's Office, 900 Main Street, Shiloh, NJ 08353.
Township of Upper Deerfield	Upper Deerfield Township Municipal Building, 1325 Highway 77, Seabrook, NJ 08302.
Salem County, New Jersey (All Jurisdictions) Docket No.: FEMA–B–1471	
Borough of Elmer	Borough Hall, 120 South Main Street, Elmer, NJ 08318.
Borough of Penns Grove	Borough Hall, 1 State Street, Penns Grove, NJ 08069.
Borough of Woodstown	25 West Avenue, Woodstown, NJ 08098.
City of Salem	17 New Market Street, Salem, NJ 08079.
Township of Alloway	49 South Greenwich Street, Alloway, NJ 08001.
Township of Carneys Point	303 Harding Highway, Carneys Point, NJ 08069.
Township of Elsinboro	Elsinboro Township Municipal Building, 619 Salem Fort-Elfsborg Road, Salem, NJ 08079.
Township of Lower Alloways Creek	Township of Lower Alloways Creek, 501 Locust Island Road Hancock's Bridge, NJ 08038.
Township of Mannington	Town Hall, 491 Route 45, Mannington, NJ 08079.
Township of Oldmans	Township of Oldmans, Pedricktown Hall, 40 Freed Road, Pedricktown, NJ 08067.
Township of Pennsville	Town Hall, 90 North Broadway, Pennsville, NJ 08070.
Township of Pilesgrove	Municipal Building, 1180 Route 40, East, Pilesgrove, NJ 08098.
Township of Pittsgrove	Municipal Building, 989 Centerton Road, Pittsgrove, NJ 08318.
Township of Quinton	Municipal Building, 885 Quinton Road, Quinton, NJ 08072.
Township of Upper Pittsgrove	Township of Upper Pittsgrove, 431 Route 77, Woodstown, NJ 08318.
Delaware County, New York (All Jurisdictions) Docket No.: FEMA–B–1419	
Town of Andes	Town Hall, 115 Delaware Avenue, Andes, NY 13731.
Town of Bovina	Bovina Town Clerk's Office, 1866 County Highway 6, Bovina Center, NY 13740.
Town of Colchester	Colchester Town Hall, 72 Tannery Road, Downsville, NY 13755.
Town of Delhi	Town Clerk's Office, 5 Elm Street, Delhi, NY 13753.
Town of Franklin	Town Hall, 554 Main Street, Franklin, NY 13775.
Town of Hamden	Town Hall, Corner of Route 10 and Covert Hollow Road, Hamden, NY 13782.
Town of Harpersfield	Town Hall, 25399 State Highway 23, Harpersfield, NY 13786.
Town of Kortright	Kortright Town Hall, 51702 State Highway 10, Bloomville, NY 13739.
Town of Meredith	Town Hall, 4247 Turnpike Road, Meredith, NY 13806.
Town of Middletown	Middletown Building and Zoning Office, 42339 State Highway 28, Margaretville, NY 12455.
Town of Roxbury	Town Hall, 53690 State Highway 30, Roxbury, NY 12474.
Town of Stamford	Stamford Town Hall, 101 Maple Avenue, Hobart, NY 13788.
Town of Tompkins	Tompkins Town Hall, 148 Bridge Street, Trout Creek, NY 13847.
Town of Walton	Town Hall, 129 North Street, Walton, NY 13856.
Village of Delhi	Village Hall, 9 Court Street, Delhi, NY 13753.
Village of Fleischmanns	Village Hall, 1017 Main Street, Fleischmanns, NY 12430.
Village of Hobart	Community Center, 80 Cornell Avenue, Hobart, NY 13788.
Village of Margaretville	Village Hall, 773 Main Street, Margaretville, NY 12455.
Village of Stamford	Village Hall, 84 Main Street, Stamford, NY 12167.

Community	Community map repository address
Village of Walton	Village Hall, 21 North Street, Walton, NY 13856.

[FR Doc. 2016–04891 Filed 3–4–16; 8:45 am]
BILLING CODE 9110–12–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–R–2016–N024;FXGO1664091HCC0–FF09D00000–167]

Wildlife and Hunting Heritage Conservation Council; Public Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce a public meeting of the Wildlife and Hunting Heritage Conservation Council (Council). The Council provides advice about wildlife and habitat conservation endeavors that benefit wildlife resources; encourage partnership among the public, the sporting conservation organizations, the States, Native American tribes, and the Federal Government; and benefit recreational hunting.

DATES: *Meeting:* Wednesday, March 23, 2016, from 10:30 a.m. to 5 p.m. (Eastern Daylight Time). For deadlines and directions on registering to attend, submitting written material, and giving an oral presentation, please see ''Public Input'' under **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meeting will be held at the South Penthouse Room, Main Interior Building, 1849 C St. NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Joshua Winchell, Council Designated Federal Officer, U.S. Fish and Wildlife Service, National Wildlife Refuge System, 5275 Leesburg Pike, Falls Church, VA 22041–3803; telephone: (703) 358–2639; or email: *joshua_winchell@fws.gov.*

SUPPLEMENTARY INFORMATION: In accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. App., we announce that Wildlife and Hunting Heritage Conservation Council will hold a meeting.

Background

Formed in February 2010, the Council provides advice about wildlife and habitat conservation endeavors that:

1. Benefit wildlife resources;
2. Encourage partnership among the public, the sporting conservation organizations, the states, Native American tribes, and the Federal Government; and
3. Benefit recreational hunting.

The Council advises the Secretary of the Interior and the Secretary of Agriculture, reporting through the Director, U.S. Fish and Wildlife Service (Service), in consultation with the Director, Bureau of Land Management (BLM); Director, National Park Service (NPS); Chief, Forest Service (USFS); Chief, Natural Resources Conservation Service (NRCS); and Administrator, Farm Services Agency (FSA). The Council's duties are strictly advisory and consist of, but are not limited to, providing recommendations for:

1. Implementing the Recreational Hunting and Wildlife Resource Conservation Plan—A Ten-Year Plan for Implementation;
2. Increasing public awareness of and support for the Wildlife Restoration Program;
3. Fostering wildlife and habitat conservation and ethics in hunting and shooting sports recreation;
4. Stimulating sportsmen and women's participation in conservation and management of wildlife and habitat resources through outreach and education;
5. Fostering communication and coordination among State, tribal, and Federal governments; industry; hunting and shooting sportsmen and women; wildlife and habitat conservation and management organizations; and the public;
6. Providing appropriate access to Federal lands for recreational shooting and hunting;
7. Providing recommendations to improve implementation of Federal conservation programs that benefit wildlife, hunting, and outdoor recreation on private lands; and
8. When requested by the Designated Federal Officer in consultation with the Council Chairperson, performing a variety of assessments or reviews of policies, programs, and efforts through the Council's designated subcommittees or workgroups.

Background information on the Council is available at *http://www.fws.gov/whhcc.*

Meeting Agenda

The Council will convene to consider issues including:

1. Wildlife habitat and health;
2. Funding for public lands and wildlife management;
3. Enhancing and expanding outdoor recreation opportunities; and
4. Other Council business..

The final agenda will be posted on the Internet at *http://www.fws.gov/whhcc.*

Public Input

If you wish to	You must contact the Council Coordinator (see **FOR FURTHER INFORMATION CONTACT**) no later than
Attend the meeting	March 10, 2016.
Submit written information or questions before the meeting for the council to consider during the meeting.	March 10, 2016.
Give an oral presentation during the meeting	March 10, 2016.

Attendance

To attend this meeting, register by close of business on the dates listed in ''Public Input'' under **SUPPLEMENTARY INFORMATION**. Please submit your name, time of arrival, email address, and phone number to the Council Coordinator (see **FOR FURTHER INFORMATION CONTACT**).

Submitting Written Information or Questions

Interested members of the public may submit relevant information or questions for the Council to consider

during the public meeting. Written statements must be received by the date above, so that the information may be made available to the Council for their consideration prior to this meeting. Written statements must be supplied to the Council Coordinator in both of the following formats: One hard copy with original signature, and one electronic copy via email (acceptable file formats are Adobe Acrobat PDF, MS Word, MS PowerPoint, or rich text file).

Giving an Oral Presentation

Individuals or groups requesting to make an oral presentation at the meeting will be limited to 2 minutes per speaker, with no more than a total of 30 minutes for all speakers. Interested parties should contact the Council Coordinator, in writing (preferably via email; see **FOR FURTHER INFORMATION CONTACT**), to be placed on the public speaker list for this meeting. Nonregistered public speakers will not be considered during the meeting. Registered speakers who wish to expand upon their oral statements, or those who had wished to speak but could not be accommodated on the agenda, may submit written statements to the Council Coordinator up to 30 days subsequent to the meeting.

Meeting Minutes

Summary minutes of the conference will be maintained by the Council Coordinator (see **FOR FURTHER INFORMATION CONTACT**). They will be available for public inspection within 90 days of the meeting, and will be posted on the Council's Web site at *http://www.fws.gov/whhcc.*

James W. Kurth,

Acting Director.

[FR Doc. 2016–04962 Filed 3–4–16; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R5–R–2015–N238; FXRS85510553RGO–XXX–FF05R04000]

U.S. Fish and Wildlife Service Lands in the Northeast Region; Draft Long Range Transportation Plan

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft long-range transportation plan (LRTP) for public review and comment. The draft LRTP outlines a strategy for improving and maintaining transportation assets that provide access to Service-managed lands in the Northeast Region (Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, New Jersey, Delaware, Maryland, Virginia, and West Virginia) over the next 20 years.

DATES: To ensure our consideration of your written comments, please send them no later than April 6, 2016.

ADDRESSES: Send your comments or requests for copies of the draft LRTP for Service lands in the Northeast Region by one of the following methods.

- *Agency Web site:* View or download the draft document on the Web at *http://www.fws.gov/northeast/refuges/roads/pdf/northeast-region-long-range-transportation-plan.pdf.*
- *U.S. Mail:* Carl Melberg, Acting Regional Transportation Program Coordinator, Northeast Region, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, MA 01035.
- *Email: carl_melberg@fws.gov.* Please put the words ''Draft Long Range Transportation Plan'' in the subject line of your electronic mail.

FOR FURTHER INFORMATION CONTACT: Carl Melberg, Acting Regional Transportation Program Coordinator, phone: 413–253–8586; facsimile: 413–253–8468; or electronic mail: *carl_melberg@fws.gov.*

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we make the draft LRTP for the Northeast Region of the Service available for public review and comment. When finalized, the LRTP will apply to Service-managed lands in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, New Jersey, Delaware, Maryland, Virginia, and West Virginia.

Background

The Fixing America's Surface Transportation Act (FAST Act) requires all Federal land management agencies to conduct long-range transportation planning in a manner that is consistent with metropolitan planning organization and state Department of Transportation planning. This LRTP was initiated within the Service to achieve the following:

- Establish a defensible structure for sound transportation planning and decision-making.
- Establish a vision, mission, goals, and objectives for transportation planning in the Service's Northeast Region.
- Implement coordinated and cooperative transportation partnerships in an effort to improve the Service's transportation infrastructure.
- Integrate transportation planning and funding for wildlife refuges and fish hatcheries into existing and future Service management plans and strategies (*e.g.,* comprehensive conservation plans and comprehensive hatchery management plans).
- Increase awareness of Alternative Transportation Systems and associated benefits.
- Develop best management practices for transportation improvements on Service lands.
- Serve as a pilot project for the implementation of a Region-level transportation planning process within the Service.

LRTP Mission, Goals, and Objectives

Through a collaborative effort, the Service's National Wildlife Refuge System (Refuge System) and Fish and Aquatic Conservation program, in cooperation with the Division of Refuge Field Support within the Service's Northeast Region, have contributed to defining the mission, goals, and objectives presented in this document. The resulting mission, goals, and objectives are intended to provide a systematic approach to guide the process for evaluating and selecting transportation improvement for the Service lands in the Northeast Region. These guiding principles have shaped the development, conclusions, and recommendations of this LRTP.

Mission

To support the Service's mission by connecting people to fish, wildlife, and their habitats through strategic implementation of transportation programs.

Goals and Objectives

This LRTP has six categories of goals: Coordinated Opportunities; Asset Management; Safety; Environmental; Access, Mobility, and Connectivity; and Visitor Experience. Under each goal, we present distinct objectives that move us to the goal.

1. Coordinated Opportunities: The program will seek joint transportation opportunities that support the Service mission, maximize the utility of Service resources, and provide mutual benefits to the Service and external partners.

Objectives:

- Identify and increase key internal and external partnerships at the national, regional, and unit levels.

• Maximize leveraged opportunities by identifying and pursuing funding for projects of mutual interest and benefit.

• Develop best practices for external engagement that illustrates success in forming and nurturing coalitions and partnerships that support the Service's mission.

• Coordinate within Service programs, including the Refuge System, Ecological Services, Fish and Aquatic Conservation, hatcheries, and Migratory Birds during the development of regional long-range and project-level plans.

2. Asset Management: The program will operate and maintain a functional, financially sustainable, and resilient transportation network to satisfy current and future land management needs in the face of a changing climate.

Objectives:

• Use asset management principles to maintain important infrastructure at an appropriate condition level.

• Prioritize work programs through the project selection process detailed in this plan or an adaptation thereof.

• Evaluate life-cycle costs when considering new assets to determine long-term financial sustainability.

• Consider the impacts of increased climate variability in the planning and management of transportation assets.

3. Safety: The program's network will provide a superior level of safety for all users and all modes of transportation to and within Service lands.

Objectives:

• Identify safety issue ''hot spots'' within the Service's transportation system with the Safety Analysis Toolkit.

• Implement appropriate safety countermeasures to resolve safety issues and reduce the frequency and severity of crashes (also with the Safety Analysis Toolkit).

• Address wildlife-vehicle collisions with design solutions (Environmental Enhancements).

• Use cooperation and communication among the 4E's of safety, including engineering, education, enforcement, and emergency medical services.

4. Environmental: Transportation infrastructure will be landscape appropriate and play a key role in the improvement of environmental conditions in and around Service lands.

Objectives:

• Follow the Roadway Design Guidelines for best practices in design, planning, management, maintenance, and construction of transportation assets.

• Reduce greenhouse gas emissions and air pollutants by increasing transportation options and use of alternative fuels.

• Protect wildlife corridors, reduce habitat fragmentation, and enhance terrestrial and aquatic organism passage on and adjacent to Service lands to conserve fish, wildlife, and plant populations.

5. Access, Mobility, and Connectivity: The program will ensure that units open to public visitation have adequate transportation options for all users, including underserved, underrepresented, and mobility-limited populations.

Objectives:

• Offer a wide range of transportation modes and linkages for on and offsite access.

• Provide a clear way finding information both on and off Service lands.

• Through the Urban Wildlife Conservation Program, integrate Service transportation facilities with local community transportation systems in a way that encourages local visitation and provides economic benefits to partner and gateway communities.

• Through coordinated planning, provide context-appropriate transportation facilities that address the specific needs of local visitor groups and respect the natural setting of the refuge or hatchery.

• Address congestion issues to and within Service units.

6. Visitor Experience: The program will enhance the visitation experience through improvement and investment in the transportation network.

Objectives:

• Integrate interpretation, education, and resource stewardship principles into the transportation experience.

• Evaluate the feasibility of alternative transportation systems at all stations and implement where appropriate.

• Encourage connections with existing and planned public and private transportation services.

• Design infrastructure in such a way that highlights the landscape and not the transportation facility.

Next Steps

After this comment period ends, we will analyze the comments and address them in the form of a final LRTP.

Public Availability of Comments

Before including your address, telephone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment–including your personal identifying information–may be made publicly available at any time. 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.

Dated: February 4, 2016.

Deborah Rocque,

Acting Regional Director, Northeast Region.

[FR Doc. 2016–04987 Filed 3–4–16; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement (BSEE)

[Docket ID BSEE–2016–0002; OMB Control Number 1014–0002; 16XE1700DX EX1SF0000.DAQ000 EEEE500000]

Information Collection Activities: Oil and Gas Production Measurement, Surface Commingling, and Security; Proposed Collection; Comment Request

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: 60-Day notice.

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), the Bureau of Safety and Environmental Enforcement (BSEE) is inviting comments on a collection of information that we will submit to the Office of Management and Budget (OMB) for review and approval. The information collection request (ICR) concerns a renewal to the paperwork requirements in the regulations under Subpart L, *Oil and Gas Production Measurement, Surface Commingling, and Security*.

DATES: You must submit comments by May 6, 2016.

ADDRESSES: You may submit comments by either of the following methods listed below.

• *Electronically:* go to *http://www.regulations.gov* and search for BSEE–2016–0002. Follow the instructions to submit public comments and view all related materials. We will post all comments.

• *Email kelly.odom@bsee.gov*. Mail or hand-carry comments to the Department of the Interior; BSEE; Regulations and Standards Branch; ATTN: Kelly Odom; 45600 Woodland Road, Sterling, Virginia 20166. Please reference ICR 1014–0002 in your comment and include your name and return address.

FOR FURTHER INFORMATION CONTACT: Kelly Odom, Regulations and Standards Branch at (703) 787–1775 to request additional information about this ICR.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR part 250, subpart L, Oil and Gas Production Measurement, Surface Commingling, and Security.

OMB Control Number: 1014–0002.

Abstract: The Outer Continental Shelf Lands Act (the Act), as amended (43 U.S.C. 1331 *et seq.* and 43 U.S.C. 1801 *et seq.*), authorizes the Secretary of the Interior (Secretary) to prescribe rules and regulations necessary for the administration of the leasing provisions of the Act related to the mineral resources on the Outer Continental Shelf (OCS). Such rules and regulations will apply to all operations conducted under a lease. Operations on the OCS must preserve, protect, and develop oil and natural gas resources in a manner that is consistent with the need to make such resources available to meet the Nation's energy needs as rapidly as possible; to balance orderly energy resource development with protection of human, marine, and coastal environments; to ensure the public a fair and equitable return on the resources of the OCS; and to preserve and maintain free enterprise competition.

The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701, *et seq.*) at section 1712(b)(2) prescribes that an operator will ''develop and comply with such minimum site security measures as the Secretary deems appropriate, to protect oil or gas produced or stored on a lease site or on the Outer Continental Shelf from theft.''

The Independent Offices Appropriations Act (31 U.S.C. 9701), the Omnibus Appropriations Bill (Pub. L. 104–133, 110 Stat. 1321, April 26, 1996), and OMB Circular A–25, authorize Federal agencies to recover the full cost of services that confer special benefits. Under the Department of the Interior's implementing policy, BSEE is required to charge fees for services that provide special benefits or privileges to an identifiable non-Federal recipient above and beyond those which accrue to the public at large. Applications for surface commingling and measurement applications are subject to cost recovery and BSEE regulations specify service fees for these requests.

Regulations at 30 CFR part 250, subpart L, implement these statutory requirements. We use the information to ensure that the volumes of hydrocarbons produced are measured accurately, and royalties are paid on the proper volumes. Specifically, we need the information to:

- Determine if measurement equipment is properly installed, provides accurate measurement of production on which royalty is due, and is operating properly;
- Obtain rates of production data in allocating the volumes of production measured at royalty sales meters, which can be examined during field inspections;
- Ascertain if all removals of oil and condensate from the lease are reported;
- Determine the amount of oil that was shipped when measurements are taken by gauging the tanks rather than being measured by a meter;
- Ensure that the sales location is secure and production cannot be removed without the volumes being recorded; and
- Review proving reports to verify that data on run tickets are calculated and reported accurately.

We will protect information from respondents considered proprietary under the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR part 2), and under regulations at 30 CFR 250.197, *Data and information to be made available to the public or for limited inspection.* No items of a sensitive nature are collected. Responses are mandatory.

Frequency: Varies by section, but primarily monthly, or on occasion.

Description of Respondents: Potential respondents comprise Federal oil, gas and sulphur lessees and/or operators.

Estimated Reporting and Recordkeeping Hour Burden: The currently approved annual reporting burden for this collection is a total of 30,856 hours. The following chart details the individual components and estimated hour burdens. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

Citation 30 CFR part 250 subpart L	Reporting or recordkeeping requirement	Hour burden
		Non-hour cost burdens
Liquid Hydrocarbon Measurement		
1202(a)(1), (b)(1); 1203(b)(1);		7 (7 hours × 1 application) Non-Hour $1,271 ($1,271 simple fee × 1 application).
1204(a)(1).		
Submit application for liquid hydrocarbon or gas measurement procedures or changes; or for commingling of production or changes.		
No fee	Submit meter status and replacement notifications	2 (2 hrs. × 1 notification).
1202(a)(4)	Copy and send pipeline (retrograde) condensate volumes upon request.	0.
1202(c)(1), (2); 1202(e)(4); 1202(h)(1), (2), (3), (4); 1202(i)(1)(iv), (2)(iii); 1202(j).	Record observed data, correction factors and net standard volume on royalty meter and tank run tickets.	0.
	Record master meter calibration runs	
	Record mechanical-displacement prover, master meter, or tank prover proof runs.	
	Record liquid hydrocarbon royalty meter malfunction and repair or adjustment on proving report; record unregistered production on run ticket.	
	List Cpl and Ctl factors on run tickets	
1202(c)(4) *	Copy and send all liquid hydrocarbon run tickets monthly	120 (20 min. × 360 tickets).
1202(d)(1) (d)(4); (k)(9); 1204(b)(1)	Permit BSEE to witness testing; request approval for proving on a schedule other than monthly; request approval for well testing on a schedule other than every 60 days.	2 (2 × 1 well test request).
1202(d)(5) *	Copy and submit liquid hydrocarbon royalty meter proving reports monthly and request waiver as needed.	68 (20 min. × 204 reports).

Citation 30 CFR part 250 subpart L	Reporting or recordkeeping requirement	Hour burden
		Non-hour cost burdens
1202(f)(2)*	Copy and submit mechanical-displacement prover and tank prover calibration reports.	.33 (20 min. × 1 report).
1202(l)(2)*	Copy and submit royalty tank calibration charts before using for royalty measurement.	0.
1202(l)(3)*	Copy and submit inventory tank calibration charts upon request; retain charts for as long as tanks are in use.	0.
Subtotal		199.33 burden hours. 1,271 non-hour cost burdens.
Gas Measurement		
1203(b)(6), (8), (9)*	Copy and submit gas quality and volume statements monthly or as requested.	28 (20 min. × 84 statements).
1203(c)(1)	Request approval for gas calibration on a schedule other than monthly	0.
1203(c)(4)*; (c)(5)	Copy and submit gas meter calibration reports upon request; retain for 2 years; permit BSEE to witness calibrations.	1 (7.5 min. × 8 reports).
1203(e)(1)*	Copy and submit gas processing plant records upon request	0.
1203(f)(5)	Copy and submit measuring records of gas lost or used on lease upon request.	0.
Subtotal		29 burden hours. 0 non-hour cost burdens.
Surface Commingling		
1204(a)(2)	Provide state production volumetric and/or fractional analysis data upon request.	0.
1205(a)(2)	Post signs at royalty or inventory tank used in royalty determination process.	0.
1205(a)(4)	Report security problems (telephone)	0.
Subtotal		0 burden hours. 0 non-hour cost burdens.
Miscellaneous and Recordkeeping		
1200 thru 1205	General departure and alternative compliance requests not specifically covered elsewhere in subpart L.	1.3 (1.3 hrs. × 1 request).
1202(e)(6)	Retain master meter calibration reports for 2 years	0.
1202(k)(5)	Retain liquid hydrocarbon allocation meter proving reports for 2 years	4 (10 min. × 24 responses).
1203(f)(4)	Document and retain measurement records on gas lost or used on lease for 2 years at field location and minimum 7 years at location of respondent's choice.	7.5 (15 min. × 30 responses).
1204(b)(3)	Retain well test data for 2 years	97.37 (6.7 min. × 872 responses).
1205(b)(3), (4)	Retain seal records for 2 years; make records available for BSEE inspection.	.66 (5 min. × 8 responses).
Subtotal		110.83 burden hours. 0 non-hour cost burdens.
Total Burden		339.2 burden hours. $1,271 non-hour cost burdens.

*Respondents gather this information as part of their normal business practices. BSEE only requires copies of readily available documents. There is no burden for testing, meter reading, etc.

Estimated Reporting and Recordkeeping Non-Hour Cost Burden: The currently approved non-hour cost burden total in this collection of information is $344,279. The cost burdens are for:

1. Filing fees associated with submitting requests for approval of simple applications (applications to temporarily reroute production (for a duration not to exceed 6 months); production tests prior to pipeline construction; departures related to meter proving, well testing, or sampling frequency ($1,271 per application)) or,

2. Submitting a request for approval of a complex application (creation of new facility measurement points (FMPs); association of leases or units with existing FMPs; inclusion of production from additional structures; meter updates which add buyback gas meters or pigging meters; other applications which request deviations from the approved allocation procedures).

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Before submitting an ICR to OMB, PRA section 3506(c)(2)(A) requires each agency ''. . . to provide notice . . . and otherwise consult with members of the public and affected agencies concerning each proposed collection of information . . .''. Agencies must specifically solicit comments to:

a. Evaluate whether the collection is necessary or useful;

b. Evaluate the accuracy of the burden of the proposed collection of information;

c. Enhance the quality, usefulness, and clarity of the information to be collected; and

d. Minimize the burden on the respondents, including the use of technology.

Agencies must also estimate the non-hour paperwork cost burdens to respondents or recordkeepers resulting from the collection of information. Therefore, if you have other than hour burden costs to generate, maintain, and disclose this information, you should comment and provide your total capital and startup cost components or annual operation, maintenance, and purchase of service components. For further information on this burden, refer to 5 CFR 1320.3(b)(1) and (2), or contact the Bureau representative listed previously in this notice.

We will summarize written responses to this notice and address them in our submission for OMB approval. As a result of your comments, we will make any necessary adjustments to the burden in our submission to OMB.

Public Comment Procedures: 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.

Acting BSEE Information Collection Clearance Officer: Kelly Odom (703) 787–1775.

Dated: February 24, 2016.

Robert W. Middleton,

Deputy Chief, Office of Offshore Regulatory Programs.

[FR Doc. 2016–05052 Filed 3–4–16; 8:45 am]

BILLING CODE 4310–VH–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–469 and 731–TA–1168 (Review)]

Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From China

Determinations

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930, that revocation of the countervailing duty order and antidumping duty order on Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), instituted these reviews on October 1, 2015 (80 FR 59183) and determined on January 4, 2016 that it would conduct expedited reviews (81 FR 1966, January 14, 2016).

The Commission made these determinations pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)). It completed and filed its determinations in these reviews on March 2, 2016.[2] The views of the Commission are contained in USITC Publication 4595 (February 2016), entitled *Certain Seamless Carbon and Alloy Steel and Standard, Line, and Pressure Pipe from China: Investigation Nos. 701–TA–469 and 731–TA–1168 (Review).*

By order of the Commission.

Issued: March 2, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–04998 Filed 3–4–16; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] The Commission has the authority to toll statutory deadlines during a period when the federal government is closed. Because the Commission was closed on January 25 and 26, 2016 due to inclement weather in Washington, DC, the Commission tolled the statutory deadline in these reviews by two days.

DEPARTMENT OF JUSTICE

[OMB Number 1140–0102]

Agency Information Collection Activities; Proposed eCollection eComments Requested; FEL Out of Business Records

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until May 6, 2016.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Kris Howard, Program Manager, National Tracing Center Division, 244 Needy Road, Martinsburg, WV 25405, at email: *kris.howard@atf.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

1. *Type of Information Collection (check justification or form 83–I):* Extension of a currently approved collection.

2. *The Title of the Form/Collection:* FEL Out of Business Records.

3. *The agency form number, if any, and the applicable component of the Department* sponsoring the collection:

Form number (if applicable): None.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Businesses or other for-profit.

Other (if applicable): Individuals or households.

Abstract: Per 27 CFR 555.128 where an explosive materials business or operations is discontinued the records must be delivered within 30 days following the business or operations discontinuance to the ATF Out of Business Records Center, 244 Needy Road, Martinsburg, WV 25405.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 200 respondents will take 30 minutes package and ship/deliver the explosives records to ATF.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 100 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3E–405B, Washington, DC 20530.

Dated: March 1, 2016.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2016–04926 Filed 3–4–16; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Evaluation of the Young Offenders Grants

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Employment and Training Administration (ETA) sponsored information collection request (ICR) proposal titled, ''Evaluation of the Young Offenders Grants,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before April 6, 2016.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201504-1205-006* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–ETA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks PRA authority for the Evaluation of the Young Offenders Grants information collection. This ICR is limited to the collection of baseline information needed at the outset of the study for people who are randomly assigned. Baseline information includes characteristics of study participants collected through a background information form, Form ETA–9167, and detailed contact information collected through a contact information form, Form ETA–9168. Workforce Investment Act section 185(d) authorizes this information collection. *See* 29 U.S.C. 2939(d).

This proposed information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. For additional information, see the related notice published in the **Federal Register** on December 29, 2014 (79 FR 78109).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB ICR Reference Number 201504–1205–006. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–ETA.

Title of Collection: Evaluation of the Young Offenders Grants.

OMB ICR Reference Number: 201504–1205–006.

Affected Public: Individuals or Households and Private Sector—businesses or other for-profits and not-for-profit institutions.

Total Estimated Number of Respondents: 5,040.

Total Estimated Number of Responses: 10,000.

Total Estimated Annual Time Burden: 2,166 hours.

Total Estimated Annual Other Costs Burden: $0.

Dated: March 1, 2016.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2016–04935 Filed 3–4–16; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Work-Study Program of the Child Labor Regulations

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Wage and Hour Division (WHD) sponsored information collection request (ICR) titled, ''Work-Study Program of the Child Labor Regulations,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.* Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before April 6, 2016.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201510-1235-003* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–WHD, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Work-Study Program (WSP) of the Child Labor Regulations information collection codified in regulations 29 CFR 570.35b. This program allows for the employment of 14- and 15-year-olds under conditions Child Labor Regulation 3 otherwise prohibit. The information collection requirements include submitting a written request for the Administrator of the WHD to approve a WSP; preparing a written participation agreement that is signed by the teacher-coordinator, employer, and student and that the student's parent or guardian either signs or consents to; and school and employer records maintenance. Fair Labor Standards Act section 11(c) authorizes this information collection. *See* 29 U.S.C. 211(c).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1235–0024.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on May 31, 2016. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on September 22, 2015 (80 FR 57234).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1235–0024. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–WHD.

Title of Collection: Work-Study Program of the Child Labor Regulations.

OMB Control Number: 1235–0024.

Affected Public: State, Local, and Tribal Governments; and Private Sector—businesses or other for-profits, farms, and not-for-profit institutions.

Total Estimated Number of Respondents: 510.

Total Estimated Number of Responses: 1,010.

Total Estimated Annual Time Burden: 528 hours.

Total Estimated Annual Other Costs Burden: $0.

Dated: March 1, 2016.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2016–04936 Filed 3–4–16; 8:45 am]

BILLING CODE 4510–27–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Gamma Radiation Surveys

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Mine Safety and

Health Administration (MSHA) sponsored information collection request (ICR) titled, ''Gamma Radiation Surveys,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.* Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before April 6, 2016.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201508-1219-006* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–MSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Gamma Radiation Surveys information collection codified in regulations 30 CFR 57.5047 that requires a covered mine operator to maintain a record of cumulative individual gamma radiation exposure to ensure that annual exposure does not exceed five (5) Rems. This requirement protects the health of workers in mines with radioactive ores. Federal Mine Safety & Health Act sections 101(a) and 103(c) and (h) authorize this information collection. See 30 U.S.C. 811(a), 813(c), and 813(h).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1219–0039.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on March 31, 2016. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on September 23, 2016 (80 FR 57400).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1219–0039. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–MSHA.

Title of Collection: Gamma Radiation Surveys.

OMB Control Number: 1219–0039.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 3.

Total Estimated Number of Responses: 3.

Total Estimated Annual Time Burden: 6 hours.

Total Estimated Annual Other Costs Burden: $0.

Dated: March 1, 2016.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2016–04937 Filed 3–4–16; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Unemployment Insurance Call Center Final Assessment Guide

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Employment and Training Administration (ETA) sponsored information collection request (ICR) proposal titled, ''Unemployment Insurance Call Center Final Assessment Guide,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before April 6, 2016.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201509-1205-013* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs,

Attn: OMB Desk Officer for DOL–ETA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks PRA authority for the Unemployment Insurance (UI) Call Center Final Assessment Guide information collection. The ETA proposes to conduct a comprehensive study of UI call center operations by collecting data to understand key operational challenges and issues in light of Administration policy priorities and of other partner programs. More specifically, approval of this ICR would authorize the ETA to conduct telephone interviews of UI State Workforce Administration Administrators and Directors. The interviews would gather detailed documentation of how states operate their UI call centers, as well as gather information on how existing state UI call centers' successful practices and measurable performances are used. Social Security Act section 303(a)(6) authorizes this information collection. *See* 42 U.S.C. 503(a)(6).

This proposed information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. For additional information, see the related notice published in the **Federal Register** on July 2, 2015 (80 FR 38233).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB ICR Reference Number 201509–1205–013. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–ETA.

Title of Collection: Unemployment Insurance Call Center Final Assessment Guide.

OMB ICR Reference Number: 201509–1205–013.

Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Respondents: 53.

Total Estimated Number of Responses: 53.

Total Estimated Annual Time Burden: 133 hours.

Total Estimated Annual Other Costs Burden: $0.

Dated: March 1, 2016.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2016–04934 Filed 3–4–16; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations Part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below.

DATES: All comments on the petitions must be received by the MSHA's Office of Standards, Regulations, and Variances on or before April 6, 2016.

ADDRESSES: You may submit your comments, identified by ''docket number'' on the subject line, by any of the following methods:

1. *Electronic Mail: zzMSHA-comments@dol.gov.* Include the docket number of the petition in the subject line of the message.
2. *Facsimile:* 202–693–9441.
3. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452, Attention: Sheila McConnell, Acting Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations, and Variances at 202–693–9447 (Voice), *barron.barbara@dol.gov* (Email), or 202–693–9441 (Facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or
2. That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the

requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M–2016–002–C.

Petitioner: Clinton M Wynn Mining, 419 Shingara Lane, Sunbury, Pennsylvania 17801.

Mine: Bottom Rock Slope, MSHA I.D. No. 36–10110, located in Northumberland County, Pennsylvania.

Regulation Affected: 30 CFR 49.2(b) (Availability of mine rescue teams).

Modification Request: The petitioner requests a modification of the existing standard to permit the reduction of two mine rescue teams with five members and one alternate each to two mine rescue teams of three members with one alternate for either team. The petitioner states that:

(1) The underground mine is a small mine and there is hardly enough physical room to accommodate more than three or four miners in the working places. An attempt to utilize five or more rescue team members in the mine's confined working places would result in a diminution of safety to both the miners at the mine and members of the rescue team.

(2) Records of Mine Emergency responses over the last 20 years indicate that rescue and recovery operations conducted by Anthracite Underground Rescue, Inc. (AUGR) have never utilized more than one team. In addition, when one rescue team was utilized there were no more than three members traveling to a working place simultaneously.

(3) The electric power does not reach beyond the bottom of the slope. Therefore, all coal haulage is done by hand trammed cars or battery electric motor and car at very slow rates of speed. These facts considerably reduce the risk of a disaster and the need for as many mine rescue team members as required by the regulations.

(4) The employment in the underground anthracite mines has decreased substantially and the ratio of mine rescue teams to underground miners has correspondingly been reduced. The loss of the underground work force dramatically reduces the pool of qualified people available to fill mine rescue positions.

(5) Pennsylvania Deep Mine Safety presently has four deep mine inspectors that have deep mine rescue training and are pledged to assist if required in an emergency. In addition, the surrounding small mines have always provided assistance during mine emergencies.

(6) As a result of poor market conditions and a significant number of underground mines now conducting final pillar recovery, the downward trends are expected to continue.

The petitioner asserts that the proposed alternative method will provide no less than the same measure of protection afforded the miners under the existing standard.

Docket Number: M–2016–003–C.

Petitioner: Clinton M Wynn Mining, 419 Shingara Lane, Sunbury, Pennsylvania 17801.

Mine: Bottom Rock Slope, MSHA I.D. No. 36–10110, located in Northumberland County, Pennsylvania.

Regulation Affected: 30 CFR 75.335 (Seal strength, design application, and installation).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of seal construction employing wooden material of moderate size and weight due to the difficulty in accessing previously driven headings and breasts containing the inaccessible abandoned workings through the use of homemade ladders. The petitioner requests that a design criteria in the 10 psi range be accepted due to the non-explosibility of anthracite coal dust and minimal potential for either an accumulation of methane in previously mined pitching veins or an ignition source in the gob area. The petitioner states that seals installed in pairs permit the water trap to be installed only in the gangway seal (lowest elevation) and sampling tube in the monkey (higher elevation) seal. The petitioner also states that:

(1) The required transportation of solid concrete blocks or equivalent materials manually on ladders on pitching anthracite veins will expose miners to greater hazard(s) of falling, being struck by falling materials or resulting strains or sprains due to the weight of the materials.

(2) No evidence of ignition in accessible abandoned anthracite workings has been found to date.

(3) In veins pitching greater than 45 degrees the weight of the seal is transferred to the low side rib (coal).

(4) Irregularly shaped anthracite openings would require substantial cutting of rectangular blocks to insure proper tie-in to hitches in the top rock, bottom rock and low side coal rib.

(5) Concrete block and mortar construction for openings parallel to the pitching vein would be almost impossible to construct and subject to failure merely by its own weight.

(6) Isolation of inaccessible abandoned workings from an active section will permit natural venting of any potential methane build-up through surface breeches, and the mine has not experienced measurable liberations of methane to date.

The petitioner asserts that the proposed alternative method will provide no less than the same measure of protection afforded the miners under the existing standard.

Docket Number: M–2016–004–C.

Petitioner: Clinton M Wynn Mining, 419 Shingara Lane, Sunbury, Pennsylvania 17801.

Mine: Bottom Rock Slope, MSHA I.D. No. 36–10110, located in Northumberland County, Pennsylvania.

Regulation Affected: 30 CFR 75.360 (Preshift examination at fixed intervals).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of examination and evaluation, including a visual examination of each seal, for physical damage from the slope gunboat during the pre-shift examination to occur after an air quantity reading is taken just inby the intake portal. An additional air reading and gas test for methane and oxygen deficiency will then be taken at the intake air split location(s) just off the slope in the gangway portion of the working section. The examiner will place the date, time, and their initials at the locations where air readings and gas tests are taken and the results will be properly recorded prior to anyone entering the mine.

The slope will be traveled and physically examined for its entire length on a monthly basis with dates, times and initials placed at sufficient locations throughout, and results of the examination recorded on the surface. Any hazards found will be corrected prior to personnel transportation in the slope. The petitioner states that:

(1) The intake haulage slope on moderate to steep pitch of 66 degrees is equipped with a ladder as part of its escapeway requirement. If an examination had to be conducted, platforms across the ladder at multiple locations would require miners to climb around each platform obstruction, significantly increasing a fall hazard down the slope.

(2) If examinations were conducted and platforms not provided, a significant injury or fall potential exists each time a miner gets in and out of the gunboat.

(3) Accurate air readings cannot be obtained with the gunboat blocking a major portion of the intake slope. If platforms were installed across the intake almost total restriction of the mine's only intake would occur.

(4) Since the intake haulage slope is the mine's only intake, oxygen deficiency is highly unlikely.

(5) Due to wet conditions in the mine, dates, times, and initials frequently disappear in a matter of hours.

(6) Anthracite coal historically liberates methane only during active mining thereby eliminating the likelihood of methane leaking from inaccessible abandoned areas into the intake slope. Any such leakage would be detected at the proposed sampling location at each intake air split on the gangway.

(7) The return slope airway is located immediately adjacent to the intake slope and air leakage would occur toward the return.

(8) While air losses from the intake to the return slopes are anticipated, a significant change in readings from those of the previous day to week would warrant additional air readings and gas test at various locations in the slope. Significant changes in readings, however, occur on a seasonal basis as a result of natural ventilation changes and should not be use as a basis for evaluating the efficiency of the mine's ventilation system.

(9) Only increases in air quantity readings obtained just inby the slope portal when measured in the slope are indicative of air leakage through seals in the wrong direction.

(10) Examination of the intake haulage slope on a monthly basis will ensure the safety of miners traveling the intake escapeway and significantly minimize the fall hazard potential of miners conducting examinations.

The petitioner asserts that the proposed alternative method will provide no less than the same measure of protection afforded the miners under the existing standard.

Docket Number: M–2016–005–C.

Petitioner: Clinton M Wynn Mining, 419 Shingara Lane, Sunbury, Pennsylvania 17801.

Mine: Bottom Rock Slope, MSHA I.D. No. 36–10110, located in Northumberland County, Pennsylvania.

Regulation Affected: 30 CFR 75.1200(d) & (i) (Mine map).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of cross-sections in lieu of contour lines through the intake slope, at locations of rock tunnel connections between veins, and at 1,000 feet intervals of advance from the intake slope and to limit the required mapping of miner workings above and below to those present within 100 feet of the vein(s) being mined unless veins are interconnected to other veins beyond the 100 feet limit, through rock tunnels. The petitioner states that:

(1) Due to the steep pitch encountered in mining anthracite coal veins, contours provide no useful information and their presence would make portions of the map illegible.

(2) Use of cross-sections in lieu of contour lines has been practiced since the late 1800's and provides critical information relative to the spacing between vein and proximity to other mine workings which fluctuate considerably.

(3) The vast majority of current underground anthracite mining involves either second mining of remnant pillars from previous mining/mine operators or the mining of veins of lower quality in proximity to inaccessible and frequently flooded abandoned mine workings which may or may not be mapped.

(4) All mapping for mines above and below is researched by the petitioner's contract engineer for the presence of interconnecting rock tunnels between veins in relation to the mine and a hazard analysis is done when mapping indicates the presence of known or potentially flooded workings.

(5) When no rock tunnel connections are found, mine workings found to exist beyond 100 feet from the mine are recognized as presenting no hazard to the mine due to the pitch of the vein rock separation between.

(6) The mine workings above and below are usually inactive and abandoned and not usually subject to changes during the life of the mine.

(7) Where evidence indicates prior mining was conducted on a vein above or below and research exhausts the availability of mine mapping, the vein will be considered to be mined and flooded and appropriate precautions taken through § 75.388, where possible.

(8) Where potential hazards exist and in mine drilling capabilities limit penetration, surface boreholes may be used to intercept the workings and the results analyzed prior to the beginning of mining in the affected area.

The petitioner asserts that the proposed alternative method will provide no less than the same measure of protection afforded the miners under the existing standard.

Docket Number: M–2016–006–C.

Petitioner: Clinton M Wynn Mining, 419 Shingara Lane, Sunbury, Pennsylvania 17801.

Mine: Bottom Rock Slope, MSHA I.D. No. 36–10110, located in Northumberland County, Pennsylvania.

Regulation Affected: 30 CFR 75.1202 and 75.1202–1(a) (Temporary notations, revisions and requirements).

Modification Request: The petitioner requests a modification of the existing standard to permit the required interval of survey to be established on an annual basis from the initial survey in lieu of every 6 months as required. The petitioner proposes to continue to update the mine map by hand notations on a daily basis and conduct subsequent surveys prior to commencing retreat mining, and whenever either a drilling program is required by § 75.388 or plan for mining into inaccessible areas is required by § 75.389. The petitioner states that:

(1) The low production and slow rate of advance in anthracite mining make surveying on 6-month intervals impractical. In most cases annual development is frequently limited to less than 500 feet of gangway advance with associated up-pitch development.

(2) The vast majority of small anthracite mines use non-mechanized, hand-loading mining methods.

(3) Development above the active gangway is designed to mine into the level above at designated intervals thereby maintaining sufficient control between both surveyed gangways.

(4) The available engineering/surveyor resources are limited in the anthracite coal fields. Surveying on an annual basis is difficult to achieve with four individual contractors currently available.

The petitioner asserts that the proposed alternative method will provide no less than the same measure of protection afforded the miners under the existing standard.

Docket Number: M–2016–007–C.

Petitioner: Clinton M Wynn Mining, 419 Shingara Lane, Sunbury, Pennsylvania 17801.

Mine: Bottom Rock Slope, MSHA I.D. No. 36–10110, located in Northumberland County, Pennsylvania.

Regulation Affected: 30 CFR 75.1400 (Hoisting equipment; general).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of a gunboat to transport persons without safety catches or other no less effective devices because, to date, no such safety catch or device is available for steeply pitching and undulating slopes with numerous curves and knuckles present in the main haulage slopes of anthracite mines. These mines range in length from 30 to 4200 feet and vary in pitch from 12 degrees and 75 degrees. The petitioner states that:

(1) A functional safety catch has not yet been developed; consequently, the makeshift devices, if installed, would be activated on knuckles and curves when no emergency exists causing a tumbling effect on the conveyance that would increase rather than decrease the hazard to miners.

(2) As an alternative, the petitioner proposes to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope above the main connecting device and use hoisting ropes having a factor of safety in excess of the 4 to 8 to 1 as suggested in the American Standards Specifications for the Use of Wire Rope for Mines.

The petitioner asserts that the proposed alternative method will provide no less than the same measure or protection afforded the miners under the existing standard.

Sheila McConnell,

Acting Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2016–04930 Filed 3–4–16; 8:45 am]

BILLING CODE 4520–43–P

NATIONAL SCIENCE FOUNDATION

Committee Management; Renewals

The NSF management officials having responsibility for three advisory committees listed below have determined that renewing these groups for another two years is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF), by 42 U.S.C. 1861 *et seq.* This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Committees

Advisory Committee for Environmental Research and Education, #9487

Proposal Review Panel for Industrial Innovations and Partnerships, #28164

Proposal Review Panel for Emerging Frontiers and Multidisciplinary Activities #34558, (formerly Emerging Frontiers in Research and Innovation)

Effective date for renewal is March 3, 2016. For more information, please contact Crystal Robinson, NSF, at (703) 292–8687.

Dated: March 3, 2016.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2016–05075 Filed 3–4–16; 8:45 am]

BILLING CODE 7555–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Sunshine Act Cancellation Notice—OPIC March 9, 2016 Public Hearing

OPIC's Sunshine Act notice of its Public Hearing in Conjunction with each Board meeting was published in the **Federal Register** (Volume 81, Number 30, Page 7847) on Tuesday, February 16, 2016. No requests were received to provide testimony or submit written statements for the record; therefore, OPIC's public hearing scheduled for 2 p.m., March 9, 2016 in conjunction with OPIC's March 17, 2016 Board of Directors meeting has been cancelled.

Contact Person for Information: Information on the hearing cancellation may be obtained from Catherine F.I. Andrade at (202) 336–8768, or via email at *Catherine.Andrade@opic.gov*.

Dated: March 3, 2016.

Catherine F.I. Andrade,

OPIC Corporate Secretary.

[FR Doc. 2016–05166 Filed 3–3–16; 4:15 pm]

BILLING CODE 3210–01–P

PEACE CORPS

Information Collection Request Submission for OMB Review

AGENCY: Peace Corps.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Peace Corps will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

DATES: Submit comments on or before May 6, 2016.

ADDRESSES: Comments should be addressed to Denora Miller, FOIA/Privacy Act Officer. Denora Miller can be contacted by telephone at 202–692–1236 or email at *pcfr@peacecorps.gov.* Email comments must be made in text and not in attachments.

FOR FURTHER INFORMATION CONTACT: Denora Miller at Peace Corps address above.

SUPPLEMENTARY INFORMATION:

Title: Durable Medical Equipment (DME).

OMB Control Number: 0420–XXXX.

Type of Request: New information collection.

Affected Public: Individuals.

Respondents Obligation to Reply: Voluntary.

Respondents: Potential and current volunteers.

Burdent to the Public:

a. Estimated number of respondents: 400.

b. Estimated average burden per response: 75 minutes.

c. Frequency of response: One Time.

d. Annual reporting burden: 500 hours.

General description of collection: Durable medical equipment (DME is any equipment that provides therapeutic benefits to a patient in need because of certain medical conditions and/or illness. They consist of items that are primarily and customarily used to serve a medical purpose; are not useful to a person in the absence of illness or injury; are ordered or prescribed by a physician; are reusable; can stand repeated use, and are appropriate for use in the home. Other devices covered in this guidance include prosthetic equipment (cardiac pacemakers), hearing aids, orthotic items (artificial devices such as braces and splints), and prostheses (artificial body parts). The information collected will assist in the determination of Peace Corps eligibility. If eligible, it will assist with ongoing care during service. All applicants to the Peace Corps must have a medical clearance that will determine their ability to serve in a particular country.

Request for Comment: Peace Corps invites comments on whether the proposed collections of information are necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

This notice is issued in Washington, DC on March 1, 2016.

Denora Miller,

FOIA/Privacy Act Officer, Management.

[FR Doc. 2016–04899 Filed 3–4–16; 8:45 am]

BILLING CODE 6051–01–P

PEACE CORPS

Information Collection Request; Submission for OMB Review

AGENCY: Peace Corps.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Peace Corps will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval. The purpose of this notice is to allow 30 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35).

DATES: Submit comments on or before April 6, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name/or OMB approval number and should be sent via email to: *oira_submission@omb.eop.gov* or fax to: 202–395–3086. Attention: Desk Officer for Peace Corps.

FOR FURTHER INFORMATION CONTACT: Denora Miller, FOIA/Privacy Act Officer, Peace Corps, 1111 20th Street, NW., Washington, DC 20526, (202) 692–1236, or email at *pcfr@peacecorps.gov.*

SUPPLEMENTARY INFORMATION: To better serve the Returned Volunteer Population, Peace Corps Office of Third Goal and Returned Volunteer Services (3GL) has developed a Returned Peace Corps Volunteer (RPCV) Portal. This Portal will allow RPCVs to update their contact information, share stories, request official documentation, view their service history, and enroll in outreach and marketing campaigns.

Omb Control Number: 0420-xxxx.

Title: Returned Peace Corps Volunteer Portal (RPCV Portal).

Type of Review: New.

Affected Public: Individuals.

Respondents' Obligation to Reply: Voluntary.

Burden to the Public:

a. Number of Respondents (first year): 50,000.

b. Number of Respondents (annually): 3,000.

c. Frequency of response: 2 times.

d. Completion time: 5 minutes.

e. Annual burden hours (first year): 8,333 hours.

f. Annual burden hours (annually): 500 hours.

General Description of Collection: To build a robust alumni network it is essential that Peace Corps maintains accurate and up-to-date contact information for RPCVs. By logging into the RPCV Portal, RPCVs access their record in the database directly, and are able to make changes and submit requests at their convenience. The updated contact information collected in the RPCV Portal will be used for outreach and support purposes, along with managing subscriptions for Peace Corps newsletters.

Request for Comment: Peace Corps invites comments on whether the proposed collections of information are necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

This notice issued in Washington, DC on March 1, 2016.

Denora Miller,

FOIA/Privacy Act Officer, Management.

[FR Doc. 2016–04898 Filed 3–4–16; 8:45 am]

BILLING CODE 6051–01–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2014–31; Order No. 3123]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning an amendment to Priority Mail Contract 77 negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* March 9, 2016.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

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

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Notice of Filings
III. Ordering Paragraphs

I. Introduction

On March 1, 2016, the Postal Service filed notice that it has agreed to an amendment to the existing Priority Mail Contract 77 negotiated service agreement approved in this docket.[1] In support of its Notice, the Postal Service includes a redacted copy of the amendment and a certification of compliance with 39 U.S.C. 3633(a), as required by 39 CFR 3015.5.

The Postal Service also filed the unredacted amendment and supporting financial information under seal. The Postal Service seeks to incorporate by reference the Application for Non-Public Treatment originally filed in this docket for the protection of information that it has filed under seal. Notice at 1.

The Amendment changes prices and terms of the contract, replacing Sections I. parts E., F., and G.; Section III; and Table 2. *Id.* Attachment A at 1.

The Postal Service intends for the amendment to become effective two business days after the date that the Commission completes its review of the Notice. *Id.* The Postal Service asserts that the amendment will not impair the ability of the contract to comply with 39 U.S.C. 3633. Notice, Attachment B at 1.

II. Notice of Filings

The Commission invites comments on whether the changes presented in the Postal Service's Notice are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR 3015.5, and 39 CFR part 3020, subpart B. Comments are due no later than March 9, 2016. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Curtis E. Kidd to represent the interests of the general public (Public Representative) in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission reopens Docket No. CP2014–31 for consideration of matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, the Commission appoints Curtis E. Kidd to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

3. Comments are due no later than March 9, 2016.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

[1] Notice of United States Postal Service of Change in Prices Pursuant to Amendment to Priority Mail Contract 77, March 1, 2016 (Notice).

By the Commission.

Stacy L. Ruble,

Secretary.

[FR Doc. 2016–04979 Filed 3–4–16; 8:45 am]

BILLING CODE P

POSTAL REGULATORY COMMISSION

[Docket No. CP2015–142; Order No. 3121]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning a modification to an existing Global Expedited Package Services 3 negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* March 8, 2016.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

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

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Notice of Filings
III. Ordering Paragraphs

I. Introduction

On February 29, 2016, the Postal Service filed notice that it has agreed to a modification to the existing Global Expedited Package Services 3 negotiated service agreement approved in this docket.[1] In support of its Notice, the Postal Service includes a redacted copy of the Modification and a certification of compliance with 39 U.S.C. 3633(a), as required by 39 CFR 3015.5.

The Postal Service also filed the unredacted Modification and supporting financial information under seal. The Postal Service seeks to incorporate by reference the Application for Non-Public Treatment originally filed in this docket for the protection of information that it has filed under seal. Notice at 1–2.

The Modification ''revises a few articles in the agreement to change the mailer's minimum commitment and mail preparation requirements, and amend[s] Annex 1 of the agreement.'' *Id.* at 1.

The Postal Service states that it will ''notify the Mailer of the Effective Date of this Modification within thirty (30) days after receiving the approval of the entities that have oversight responsibilities for the [Postal Service].'' *Id.* Attachment 1 at 1. The Postal Service asserts that the Modification will not impair the ability of the contract to comply with 39 U.S.C. 3633. Notice, Attachment 2.

II. Notice of Filings

The Commission invites comments on whether the changes presented in the Postal Service's Notice are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR 3015.5, and 39 CFR part 3020, subpart B. Comments are due no later than March 8, 2016. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Kenneth R. Moeller to represent the interests of the general public (Public Representative) in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission reopens Docket No. CP2015–142 for consideration of matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, the Commission appoints Kenneth R. Moeller to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

3. Comments are due no later than March 8, 2016.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Stacy L. Ruble,

Secretary.

[FR Doc. 2016–04923 Filed 3–4–16; 8:45 am]

BILLING CODE 7710–FW–P

[1] Notice of the United States Postal Service of Filing Modification to Global Expedited Package Services 3 Negotiated Service Agreement, February 29, 2016 (Notice). The modification is an attachment to the Notice (Modification).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32015; 812–14535]

Advisors Asset Management, Inc. and AAM ETF Trust; Notice of Application

March 1, 2016.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (a)(2) of the Act.

APPLICANTS: Advisors Asset Management, Inc. (''Advisors Asset Management'') and AAM ETF Trust (the ''Trust'').

SUMMARY: *Summary of Application:* Applicants request an order that permits: (a) Series of certain open-end management investment companies to issue shares (''Shares'') redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Shares to occur at negotiated market prices; (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days from the tender of Shares for redemption; and (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units.

DATES: *Filing Dates:* The application was filed on August 20, 2015 and amended on November 12, 2015.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 28, 2016, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Brent J. Fields, Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants, 18925 Base Camp Road, Suite 203, Monument, Colorado 80132.

FOR FURTHER INFORMATION CONTACT: Kay-Mario Vobis, Senior Counsel, at (202) 551–6728, or Mary Kay Frech, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Trust, a business trust organized under the laws of Massachusetts, intends to register with the Commission as an open-end management investment company. The applicants are requesting relief not only for the Trust and its initial series, AAM Income Growth ETF (''Initial Fund''), but also with respect to any future series of the Trust, and to any registered open-end management investment company or series thereof that may be created in the future and that utilizes active management investment strategies (''Future Funds'' and collectively with the Initial Fund, the ''Funds'').[1] Funds may invest in equity securities or fixed income securities traded in the U.S. or non-U.S. markets or a combination of equity and fixed income securities, including ''to-be-announced transactions'' (''TBA Transactions'')[2] and depositary receipts (''Depositary Receipts'').[3] The securities, other assets, and other positions in which a Fund invests are its ''Portfolio Positions.''[4] The Trust currently expects that the Initial Fund's investment objective will be to seek current income by investing, under normal market conditions, at least 80% of its net assets in a portfolio of dividend-paying stocks and other income producing securities.

2. Each Fund will (a) be advised by Advisors Asset Management or an entity controlling, controlled by or under common control with Advisors Asset Management (each such entity and any successor thereto, an ''Adviser'')[5] and (b) comply with the terms and conditions stated in the application. Advisors Asset Management is a Delaware corporation and is registered as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act''). Any other Adviser to a Fund will be registered under the Advisers Act. The Adviser may retain sub-advisers (each, a ''Fund Sub-Adviser'') in connection with the Funds; each Fund Sub-Adviser will be registered under the Advisers Act or not subject to such registration.

3. The Trust will enter into a distribution agreement with one or more distributors (''Distributor''). Each Distributor will be registered under the Securities Exchange Act of 1934, as amended (the ''Exchange Act''), and will act as Distributor and principal underwriter of the Funds. No Distributor will be affiliated with the Listing Exchange. The Distributor of any Fund may be an ''affiliated person'' or an affiliated person of an affiliated person of the Fund's Adviser or Fund Sub-Adviser.

4. Shares of each Fund will be purchased from the Trust only in large aggregations of a specified number referred to as ''Creation Units.'' Creation Units may be purchased through orders placed with the Distributor by or through an ''Authorized Participant'' which is either (a) a broker-dealer or other participant in the Continuous Net Settlement (''CNS'') System of the National Securities Clearing Corporation (''NSCC''), a clearing agency that is registered with the Commission, or (b) a participant (''DTC Participant'') in the Depository Trust Company (''DTC''), and which in either case has executed a participant agreement with the Distributor with respect to the creation and redemption of Creation Units. Purchases and redemptions of the Funds' Creation Units will be processed either through an enhanced clearing process available to DTC Participants that are also participants in the CNS system of the NSCC (the ''NSCC Process'') or through a manual clearing process that is available to all DTC Participants (the ''DTC Process'').

5. In order to keep costs low and permit each Fund to be as fully invested as possible, Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis. Accordingly, except where the purchase or redemption will include cash under the limited circumstances specified below, purchasers will be required to purchase Creation Units by making an in-kind deposit of specified instruments (''Deposit Instruments''), and shareholders redeeming their Shares will receive an in-kind transfer of specified instruments (''Redemption Instruments'').[6] On any given Business Day,[7] the names and quantities of the instruments that constitute the Deposit Instruments and the names and quantities of the instruments that constitute the Redemption Instruments will be identical, and these instruments may be referred to, in the case of either a purchase or redemption, as the ''Creation Basket.'' In addition, the Creation Basket will correspond pro rata to the positions in a Fund's portfolio

[1] All entities that currently intend to rely on the requested order are named as applicants and any Fund that currently intends to rely on the requested order is identified in the application. Any other entity that relies on the requested order in the future will comply with the terms and conditions of the application.

[2] A TBA Transaction is a method of trading mortgage-backed securities. In a TBA Transaction, the buyer and seller agree on general trade parameters such as agency, settlement date, par amount and price. The actual pools delivered generally are determined two days prior to the settlement date.

[3] Depositary Receipts include American Depositary Receipts (''ADRs'') and Global Depositary Receipts (''GDRs''). With respect to ADRs, the depositary is typically a U.S. financial institution and the underlying securities are issued by a foreign issuer. The ADR is registered under the Securities Act of 1933 (''Securities Act'') on Form F–6. ADR trades occur either on a national securities exchange as defined in section 2(a)(26) of the Act (''Listing Exchange'') or off-exchange. Financial Industry Regulatory Authority Rule 6620 requires all off-exchange transactions in ADRs to be reported within 90 seconds and ADR trade reports to be disseminated on a real-time basis. With respect to GDRs, the depositary may be a foreign or a U.S. entity, and the underlying securities may have a foreign or a U.S. issuer. All GDRs are sponsored and trade on a foreign exchange. No affiliated persons of applicants, any Adviser (as defined below), Fund Sub-Adviser (as defined below), or Fund will serve as the depositary for any Depositary Receipts held by a Fund. A Fund will not invest in any Depositary Receipts that the Adviser (or, if applicable, the Fund Sub-Adviser) deems to be illiquid or for which pricing information is not readily available.

[4] If a Fund invests in derivatives: (a) The Fund's board of trustees periodically will review and approve (i) the Fund's use of derivatives and (ii) how the Fund's investment adviser assesses and manages risk with respect to the Fund's use of derivatives; and (b) the Fund's disclosure of its use of derivatives in its offering documents and periodic reports will be consistent with relevant Commission and staff guidance.

[5] For the purposes of the requested order, a ''successor'' is limited to an entity or entities that result from a reorganization into another jurisdiction or a change in the type of business organization.

[6] The Funds must comply with the federal securities laws in accepting Deposit Instruments and satisfying redemptions with Redemption Instruments, including that the Deposit Instruments and Redemption Instruments are sold in transactions that would be exempt from registration under the Securities Act. In accepting Deposit Instruments and satisfying redemptions with Redemption Instruments that are restricted securities eligible for resale pursuant to Rule 144A under the Securities Act, the Funds will comply with the conditions of Rule 144A.

[7] Each Fund will sell and redeem Creation Units on any day the Fund is open, including as required by section 22(e) of the Act (each, a ''Business Day'').

(including cash positions),[8] except: (a) In the case of bonds, for minor differences when it is impossible to break up bonds beyond certain minimum sizes needed for transfer and settlement; (b) for minor differences when rounding is necessary to eliminate fractional shares or lots that are not tradeable round lots;[9] or (c) TBA Transactions, short positions, and other positions that cannot be transferred in kind[10] will be excluded from the Creation Basket.[11] If there is a difference between the net asset value (''NAV'') attributable to a Creation Unit and the aggregate market value of the Creation Basket exchanged for the Creation Unit, the party conveying instruments with the lower value will also pay to the other an amount in cash equal to that difference (the ''Balancing Amount'').

6. Purchases and redemptions of Creation Units may be made in whole or in part on a cash basis, rather than in kind, solely under the following circumstances: (a) To the extent there is a Balancing Amount, as described above; (b) if, on a given Business Day, a Fund announces before the open of trading that all purchases, all redemptions or all purchases and redemptions on that day will be made entirely in cash; (c) if, upon receiving a purchase or redemption order from an Authorized Participant, a Fund determines to require the purchase or redemption, as applicable, to be made entirely in cash;[12] (d) if, on a given Business Day, a Fund requires all Authorized Participants purchasing or redeeming Shares on that day to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are not eligible for transfer through either the NSCC Process or DTC Process; or (ii) in the case of Funds holding non-U.S. investments (''Global Funds''), such instruments are not eligible for trading due to local trading restrictions, local restrictions on securities transfers or other similar circumstances; or (e) if a Fund permits an Authorized Participant to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are, in the case of the purchase of a Creation Unit, not available in sufficient quantity; (ii) such instruments are not eligible for trading by an Authorized Participant or the investor on whose behalf the Authorized Participant is acting; or (iii) a holder of Shares of a Fund holding non-U.S. investments would be subject to unfavorable income tax treatment if the holder receives redemption proceeds in kind.[13]

7. Each Business Day, before the open of trading on the Listing Exchange, each Fund will cause to be published through the NSCC the names and quantities of the instruments comprising the Creation Basket, as well as the estimated Balancing Amount (if any), for that day. The published Creation Basket will apply until a new Creation Basket is announced on the following Business Day, and there will be no intra-day changes to the Creation Basket except to correct errors in the published Creation Basket. The Listing Exchange or a major market data vendor will disseminate every 15 seconds throughout the trading day an amount representing the Fund's estimated NAV, which will be the value of the Fund's Portfolio Positions, on a per Share basis.

8. An investor purchasing or redeeming a Creation Unit will be charged a fee (''Transaction Fee'') to protect continuing shareholders of the Funds from the dilutive costs associated with the purchase and redemption of Creation Units.[14] The Distributor will deliver a confirmation and Fund prospectus (''Prospectus'') to the purchaser. In addition, the Distributor will maintain records of both the orders placed with it and the confirmations of acceptance furnished by it.

9. Beneficial owners of Shares may sell their Shares in the secondary market. Shares will be listed on a Listing Exchange and traded in the secondary market in the same manner as other equity securities. Applicants state that it is expected that one or more specialists or market makers (collectively, ''Exchange Market Makers'') will be assigned for the Shares of each Fund. The price of Shares trading on the Listing Exchange will be based on a current bid/offer market. Transactions involving the sale of Shares on the Listing Exchange will be subject to customary brokerage commissions and charges.

10. Applicants expect that purchasers of Creation Units will include arbitrageurs and that Exchange Market Makers, acting in their unique role to provide a fair and orderly secondary market for Shares, also may purchase Creation Units for use in their own market making activities.[15] Applicants expect that secondary market purchasers of Shares will include both institutional investors and retail investors.[16] Applicants state that because the market price of Creation Units will be disciplined by arbitrage opportunities, investors should be able to sell Shares in the secondary market at prices that do not vary materially from their NAV.

11. Neither the Trust nor any Fund will be advertised or marketed as a conventional open-end investment company or mutual fund. Instead, each Fund will be marketed as an ''actively-managed exchange-traded fund.'' Any advertising material that describes the

[8] The portfolio used for this purpose will be the same portfolio used to calculate the Fund's NAV for that Business Day.

[9] A tradeable round lot for a security will be the standard unit of trading in that particular type of security in its primary market.

[10] This includes instruments that can be transferred in kind only with the consent of the original counterparty to the extent the Fund does not intend to seek such consents.

[11] Because these instruments will be excluded from the Creation Basket, their value will be reflected in the determination of the Balancing Amount (defined below).

[12] In determining whether a particular Fund will sell or redeem Creation Units entirely on a cash or in-kind basis (whether for a given day or a given order), the key consideration will be the benefit that would accrue to the Fund and its investors. For instance, in bond transactions, the Adviser may be able to obtain better execution than Share purchasers because of the Adviser's size, experience and potentially stronger relationships in the fixed income markets. Purchases of Creation Units either on an all cash basis or in kind are expected to be neutral to the Funds from a tax perspective. In contrast, cash redemptions typically require selling portfolio holdings, which may result in adverse tax consequences for the remaining Fund shareholders that would not occur with an in-kind redemption. As a result, tax considerations may warrant in-kind redemptions.

[13] A ''custom order'' is any purchase or redemption of Shares made in whole or in part on a cash basis in reliance on clause (e)(i) or (e)(ii).

[14] Where a Fund permits an in-kind purchaser to deposit cash in lieu of depositing one or more Deposit Instruments, the purchaser may be assessed a higher Transaction Fee to offset the cost to the Fund of buying those particular Deposit Instruments. In all cases, such Transaction Fees will be limited in accordance with requirements of the Commission applicable to open-end management investment companies offering redeemable securities.

[15] If Shares are listed on The NASDAQ Stock Market LLC (''Nasdaq'') or a similar electronic Listing Exchange (including NYSE Arca), one or more member firms of that Listing Exchange will act as Exchange Market Maker and maintain a market for Shares trading on that Listing Exchange. On Nasdaq, no particular Exchange Market Maker would be contractually obligated to make a market in Shares. However, the listing requirements on Nasdaq, for example, stipulate that at least two Exchange Market Makers must be registered in Shares to maintain a listing. In addition, on Nasdaq and NYSE Arca, registered Exchange Market Makers are required to make a continuous two-sided market or subject themselves to regulatory sanctions. No Exchange Market Maker will be an affiliated person or an affiliated person of an affiliated person, of the Funds, except within the meaning of section 2(a)(3)(A) or (C) of the Act due solely to ownership of Shares as discussed below.

[16] Shares will be registered in book-entry form only. DTC or its nominee will be the record or registered owner of all outstanding Shares. DTC or DTC Participants will maintain records of beneficial ownership of Shares.

features of obtaining, buying or selling Creation Units, or buying or selling Shares on the Listing Exchange, or where there is reference to redeemability, will prominently disclose that Shares are not individually redeemable and that owners of Shares may acquire Shares from a Fund and tender those Shares for redemption to a Fund in Creation Units only.

12. The Funds' Web site, which will be publicly available prior to the public offering of Shares, will include, or will include links to, each Fund's current Prospectus, which may be downloaded. That Web site, which will be publicly available at no charge, will also contain, on a per Share basis for each Fund, the prior Business Day's NAV and the market closing price or the mid-point of the bid/ask spread at the time of calculation of such NAV (the ''Bid/Ask Price''), and a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV. On each Business Day, before commencement of trading in Shares on the Listing Exchange, each Fund will also disclose on its Web site the identities and quantities of its Portfolio Positions held by the Fund that will form the basis for the Fund's calculation of NAV at the end of the Business Day.[17]

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c–1 under the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (a)(2) of the Act.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general provisions of the Act.

Sections 5(a)(1) and 2(a)(32) of the Act

3. Section 5(a)(1) of the Act defines an ''open-end company'' as a management investment company that is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 2(a)(32) of the Act defines a redeemable security as any security, other than short-term paper, under the terms of which the holder, upon its presentation to the issuer, is entitled to receive approximately a proportionate share of the issuer's current net assets, or the cash equivalent. Applicants request an order to permit the Trust to register as an open-end management investment company and redeem Shares in Creation Units only. Applicants state that each investor is entitled to purchase or redeem Creation Units rather than trade the individual Shares in the secondary market. Applicants further state that because of the arbitrage possibilities created by the redeemability of Creation Units, it is expected that the market price of an individual Share will not vary materially from its NAV.

Section 22(d) of the Act and Rule 22c–1 under the Act

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security, which is currently being offered to the public by or through a principal underwriter, except at a current public offering price described in the prospectus. Rule 22c–1 under the Act generally requires that a dealer selling, redeeming, or repurchasing a redeemable security do so only at a price based on its NAV. Applicants state that secondary market trading in Shares will take place at negotiated prices, rather than at the current offering price described in the Fund's Prospectus. Thus, purchases and sales of Shares in the secondary market will not comply with section 22(d) of the Act and rule 22c–1 under the Act. Applicants request an exemption under section 6(c) from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) of the Act and rule 22c–1 under the Act with respect to pricing are equally satisfied by the proposed method of pricing Shares. Applicants maintain that while there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c–1, appear to have been intended (a) to prevent dilution caused by certain riskless-trading schemes by principal underwriters and contract dealers, (b) to prevent unjust discrimination or preferential treatment among buyers, and (c) to ensure an orderly distribution of shares by eliminating price competition from brokers offering shares at less than the published sales price and repurchasing shares at more than the published redemption price.

6. Applicants state that (a) secondary market transactions in Shares would not cause dilution for owners of such Shares because such transactions do not involve the Trust or Funds as parties, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in Shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the proposed distribution system will be orderly because arbitrage activity will ensure that the difference between the market price of Shares and their NAV remains immaterial.

Section 22(e)

7. Section 22(e) of the Act generally prohibits a registered investment company from suspending the right of redemption or postponing the date of payment of redemption proceeds for more than seven days after the tender of a security for redemption. Applicants observe that the settlement of redemptions of Creation Units of Global Funds will be contingent not only on the settlement cycle of the U.S. securities markets but also on the delivery cycles in foreign markets in which those Funds invest. Applicants assert that, under certain circumstances, the delivery cycles for transferring Portfolio Positions to redeeming investors, coupled with local market holiday schedules, may require a delivery process of up to 15 calendar days. Applicants therefore request relief from section 22(e) in order for each Global Fund to provide payment or satisfaction of redemptions within the maximum number of calendar days required for such payment or satisfaction in the principal local market(s) where transactions in its Portfolio Positions customarily clear and settle, but in any event, within a period not to exceed fifteen calendar days.[18]

[17] Under accounting procedures followed by the Funds, trades made on the prior Business Day (''T'') will be booked and reflected in NAV on the current Business Day (''T+1''). Accordingly, the Funds 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.

[18] Applicants acknowledge that no relief obtained from the requirements of section 22(e) will affect any obligations that they may otherwise have under rule 15c6–1 under the Exchange Act, which

Continued

8. Applicants submit that Congress adopted section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds. Applicants state that allowing redemption payments for Creation Units of a Global Fund to be made within 15 calendar days would not be inconsistent with the spirit and intent of section 22(e).[19] Applicants state that each Global Fund's statement of additional information (''SAI'') will disclose those local holidays (over the period of at least one year following the date of the SAI), if any, that are expected to prevent the delivery of redemption proceeds in seven calendar days and the maximum number of days, up to 15 calendar days, needed to deliver the proceeds for that Global Fund. Applicants are not seeking relief from section 22(e) with respect to Global Funds that do not effect redemptions of Creation Units in kind.

Sections 17(a)(1) and (2) of the Act

9. Section 17(a)(1) and (2) of the Act generally prohibit an affiliated person of a registered investment company, or an affiliated person of such a person (''second tier affiliate''), from selling any security to or purchasing any security from the company. Section 2(a)(3) of the Act defines ''affiliated person'' to include any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person and any person directly or indirectly controlling, controlled by, or under common control with, the other person. Section 2(a)(9) of the Act defines ''control'' of a fund as ''the power to exercise a controlling influence over the management or policies'' of the fund and provides that a control relationship will be presumed where one person owns more than 25% of another person's voting securities. The Funds may be deemed to be controlled by an Adviser and hence affiliated persons of each other. In addition, the Funds may be deemed to be under common control with any other registered investment company (or series thereof) advised by an Adviser (an ''Affiliated Fund'').

10. Applicants request an exemption from section 17(a) under sections 6(c) and 17(b) to permit in-kind purchases and redemptions of Creation Units from the Funds by persons that are affiliated persons or second tier affiliates of the Funds solely by virtue of one or more of the following: (a) Holding 5% or more, or more than 25%, of the outstanding Shares of one or more Funds; (b) an affiliation with a person with an ownership interest described in (a); or (c) holding 5% or more, or more than 25%, of the shares of one or more Affiliated Funds.

11. Applicants assert that no useful purpose would be served by prohibiting the affiliated persons described above from making in-kind purchases or in-kind redemptions of Shares of a Fund in Creation Units. Both the deposit procedures for in-kind purchases of Creation Units and the redemption procedures for in-kind redemptions will be effected in exactly the same manner for all purchases and redemptions. The valuation of the Deposit Instruments and Redemption Instruments will be made in the same manner, and in the same manner as the Fund's Portfolio Positions, regardless of the identity of the purchaser or redeemer. Except with respect to cash determined in accordance with the procedures described in section I.G.1. of the application, Deposit Instruments and Redemption Instruments will be the same for all purchasers and redeemers. Therefore, applicants state that the in-kind purchases and redemptions will afford no opportunity for the specified affiliated persons of a Fund to effect a transaction detrimental to other holders of Shares of that Fund. Applicants do not believe that in-kind purchases and redemptions will result in abusive self-dealing or overreaching of the Fund.

Applicant's Conditions

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

1. As long as the Funds operate in reliance on the requested order, the Shares of the Funds will be listed on a Listing Exchange.

2. Neither the Trust nor any Fund will be advertised or marketed as an open-end investment company or a mutual fund. Any advertising material that describes the purchase or sale of Creation Units or refers to redeemability will prominently disclose that the Shares are not individually redeemable and that owners of the Shares may acquire those Shares from the Fund and tender those Shares for redemption to the Fund in Creation Units only.

3. The Web site for the Funds, which is and will be publicly accessible at no charge, will contain on a per Share basis, for each Fund, the prior Business Day's NAV and the market closing price or Bid/Ask Price, and a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV.

4. On each Business Day, before commencement of trading in Shares on the Listing Exchange, the Fund will disclose on its Web site the identities and quantities of the Portfolio Positions held by the Fund that will form the basis for the Fund's calculation of NAV at the end of the Business Day.

5. The Adviser or any Fund Sub-Adviser, directly or indirectly, will not cause any Authorized Participant (or any investor on whose behalf an Authorized Participant may transact with the Fund) to acquire any Deposit Instrument for the Fund through a transaction in which the Fund could not engage directly.

6. The requested relief to permit ETF operations will expire on the effective date of any Commission rule under the Act that provides relief permitting the operation of actively managed exchange-traded funds.

For the Commission, by the Division of Investment Management, under delegated authority.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–04913 Filed 3–4–16; 8:45 am]

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requires that most securities transactions be settled within three business days of the trade date.

[19] Certain countries in which a Global Fund may invest have historically had settlement periods of up to 15 calendar days.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77264; File No. SR–PHLX–2016–12]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Withdrawal of Proposed Rule Change to Adopt Limit Order Protection and Market Order Protection

March 1, 2016.

On January 21, 2016, NASDAQ OMX PHLX LLC (the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 [1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt a Limit Order Protection and a Market Order Protection feature for members accessing PSX. The proposed rule change was published for comment in the **Federal Register** on February 5, 2016.[3] The Commission received no comment letters on the proposal. On February 26, 2016, the Exchange withdrew the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 77007 (February 1, 2016), 81 FR 6314.

[4] 17 CFR 200.30–3(a)(12).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[4]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–04907 Filed 3–4–16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77269; File No. SR–FINRA–2016–010]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change To Adopt FINRA Rule 4554 (Alternative Trading Systems—Recording and Reporting Requirements of Order and Execution Information for NMS Stocks)

March 1, 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 29, 2016, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

FINRA is proposing to adopt FINRA Rule 4554 to require alternative trading systems (''ATSs'') to submit additional order information to FINRA.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

FINRA is proposing to adopt FINRA Rule 4554 to require ATSs to report additional order information to FINRA. While ATSs already submit order information to FINRA that is required by the Order Audit Trail System (''OATS'') rules, there is additional order information not currently required to be reported to OATS, such as order re-pricing events (*e.g.,* changes to an order that is pegged to the National Best Bid or Offer (''NBBO'')) and order display and reserve size information, that, if available to FINRA, would greatly enhance FINRA's ability to perform certain order-based surveillance, including layering, quote spoofing and mid-point pricing manipulation surveillance, by enabling FINRA to more fully reconstruct an ATS's order book. FINRA therefore is proposing to require ATSs to report additional ATS-specific data elements in existing OATS reports for orders in NMS stocks. ATSs would be required to report this information to FINRA consistent with current OATS reporting requirements (no later than 8:00 a.m. Eastern Time on the calendar day following receipt of the order in an electronic form as prescribed by FINRA).

As described in more detail in Item C, FINRA initially solicited comment on this proposal in *Regulatory Notice* 14–51.[3] Based on concerns raised by commenters about potential burdens associated with the original proposal, FINRA has revised the original proposal to narrow some aspects of the order information required to be reported while still enhancing FINRA's ability to reconstruct an ATS's order book for surveillance purposes. The proposal sets forth four categories of reporting requirements: (1) Data to be reported by all ATSs at the time of order receipt; (2) data to be reported by all ATSs at the time of order execution; (3) data to be reported by ATSs that display subscriber orders; and (4) data specific to ATSs that are registered as ADF Trading Centers. The proposed requirements would apply to order and execution information for NMS stocks.[4]

Proposed Order Receipt Reporting Requirements Applicable to All ATSs That Trade NMS Stocks

The first category of proposed changes applies to all ATSs when reporting the receipt of an order to OATS. Specifically, the proposed rule would require each ATS to indicate on all orders received whether it displays subscriber orders outside of the ATS (other than to alternative trading system employees).[5] This requirement will enable FINRA to distinguish between ATSs that display orders outside the ATS, either to subscribers or through consolidated quote data (''display ATS'') and ATSs that do not display orders outside the ATS (''non-display ATS'').[6] A display ATS would also indicate whether the order book is displayed to subscribers only, or distributed for publication in the consolidated quotation data. Each ATS would also be required to identify whether it is an ADF Trading Center as defined in FINRA Rule 6220. An ATS would make these determinations on a general basis, but would provide this information through flags submitted on every order event. Each ATS also would be required to identify whether a specific order can be routed away from the ATS for execution, and whether there are any counter-party restrictions on the order. ATSs would also be required to provide FINRA with a unique identifier representing the specific order type other than market and limit orders that have no other special handling instructions. In order for FINRA to map the identifier to a specific order type, an ATS will also be required to provide FINRA with a list of all of its order types twenty days before such order types become effective, and if the ATS makes any subsequent changes to its order types, twenty days before such changes become effective.[7]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See Regulatory Notice* 14–51 (November 2014).

[4] *See* 17 CFR 242.600(b)(47).

[5] The proposed requirements apply to any alternative trading system, as defined in Rule 300(a)(1) of SEC Regulation ATS, that has filed a Form ATS with the SEC and is subject to FINRA's OATS and equity trade reporting rules. *See* 17 CFR 242.300(a)(1).

For purposes of this rule, the term ''order'' includes a broker-dealer's proprietary quotes that are transmitted to an ATS.

[6] If an ATS meets the applicable volume thresholds, it is required to make its best bid and best offer available for publication in the consolidated quotation data. *See* 17 CFR 242.301(b)(3).

[7] In a Regulatory Notice announcing the implementation of this proposal, FINRA will provide a deadline prior to the implementation date by which current ATSs must initially submit lists of their existing order types to FINRA.

FINRA notes that, under current Rule 301(b)(2)(ii) of Regulation ATS, ATSs are required to file an amendment on Form ATS at least 20 calendar days

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An ATS also would be required to report, for all orders, the NBBO (or relevant reference price) in effect at the time of order receipt and the timestamp of when the ATS captured the effective NBBO (or relevant reference price); as part of this report, the ATS must identify the market data feed it used to obtain the NBBO (or relevant reference price).[8] FINRA believes that there may be some time difference, however small, between the time that an ATS receives an order and places it on the order book, and the time that the ATS records the NBBO. Reporting both fields will enable FINRA to ascertain if the NBBO changed between the time of order receipt and the time the ATS captured the effective NBBO.

If, for any reason, the ATS uses an alternative feed to the one that was reported on its ATS data submission, the ATS must notify FINRA via email of the fact that an alternative source was used, identify the alternative source, and specify the date(s), time(s) and securities for which the alternative source was used. Finally, each ATS would be required to provide the sequence number assigned to the order event by the ATS's matching engine.

Proposed Order Execution Reporting Requirements Applicable to All ATSs That Trade NMS Stocks

The second category of proposed changes applies to all ATSs when reporting the execution of an order to OATS. Specifically, each ATS must record and report the NBBO (or relevant reference price) in effect at the time of order execution, and the timestamp of when the ATS captured the effective NBBO (or relevant reference price). An ATS must identify the market data feed used by the ATS to obtain the NBBO (or other reference price). If for any reason, the ATS uses an alternative feed than the one that was reported on its ATS data submission, the ATS must notify FINRA via email of the fact that an alternative source was used, identify the alternative source, and specify the date(s), time(s) and securities for which the alternative source was used.

Proposed Reporting Requirements Applicable to Display ATSs That Trade NMS Stocks

The third category of changes applies only to display ATSs and requires that those ATSs report the following additional order receipt information: (1) Whether the order is hidden or displayable; (2) display quantity; (3) reserve quantity, if applicable; (4) displayed price; and (5) the price entered. If the matching engine re-prices a displayed order or changes the display quantity of a displayed order, the ATS must report the time of such modification and the applicable new display price or size.

The initial proposal applied these requirements to both display and non-display ATSs and would have required reporting of all changes to the price and size of orders, whether or not displayed. Commenters raised concerns with these proposed requirements, especially those related to non-displayed orders, because they would have required ATSs to record and report information that they indicated that they do not currently capture.[9] While FINRA understands the additional burdens associated with reporting this information, FINRA believes it is important that FINRA receive this information for display ATSs because the pricing and size changes are being displayed to others and FINRA needs to have an accurate, time sequenced audit trail to reconstruct the displayed market. Therefore, rather than requiring that all ATSs report changes to the price and size of orders as set forth in the initial proposal, FINRA is proposing that only those ATSs that display subscriber orders report changes to the price or size of a displayed order. FINRA believes that this information is particularly relevant to display ATSs, and that this requirement will enhance FINRA's surveillance of displayed ATSs while not imposing undue reporting burdens on non-display ATSs.

Proposed Reporting Requirements Applicable to ATSs that are ADF Trading Centers That Trade NMS Stocks

Finally, FINRA is proposing to require that ATSs that are ADF Trading Centers report information in addition to the requirements for all ATSs and display ATSs described above. Specifically, under the proposed rule, if a change to the displayed size or price of an order resulted in a new quote being transmitted to the ADF, the ADF Trading Center would be required to report the quote identifier provided to the ADF. In addition, an ADF Trading Center would be required to provide a new quote identifier if an order held by the ADF Trading Center becomes associated with a quote identifier based on an action by the matching engine related to different order(s), (*e.g.,* another order is cancelled making the order being held the best priced order in the matching engine). The following example illustrates the operation of this last provision:

10:00:01 a.m.: ATS receives order #7896 to buy 500 shares of XYZ at $10.

10:00:02 a.m.: ATS receives order #8521 to buy 500 shares of XYZ at $10.

10:00:03 a.m.: ATS submits a quote to the ADF to buy 1,000 shares of XYZ at $10, and assigns the quote ID of #1234.

The ATS would be required to report the quote ID of #1234 with orders #7896 and #8521 so that FINRA would be able to identify the specific orders that were represented in quote ID #1234.

10:00:20 a.m.: Order #7896 to buy 500 shares at $10 is cancelled.

10:00:21 a.m.: The ATS must update its bid to reflect the cancellation of order #7896. Since quote ID #1234 reflected the now-cancelled order, the ATS must assign a new quote identifier when it updates its bid to reflect the cancellation of order #7896.

10:00:22 a.m.: The ATS updates its quote on the ADF to buy 500 shares of XYZ at $10, and assigns the quote ID of #5678.

The ATS will be required to submit a report to OATS for order #8521 to reflect the new quote ID of #5678 now associated with the order. This report is necessary so that

prior to implementing a material change to the operation of the ATS. *See* 17 CFR 242.301(b)(2)(ii). In the adopting release for Regulation NMS, the Commission noted that a material change to the operation of the ATS would include any change to: the operating platform of the ATSs, the types of securities traded, or the types of subscribers. The Commission also noted that ATSs implicitly make materiality decisions in determining when to notify their subscribers of changes. *See* Securities Exchange Act Release No. 40760 (December 8, 1998) 63 FR 70844, 70864 (December 22, 1998). Under a proposed rule that would alter the reporting requirements for ATSs that trade NMS stocks, an ATS would be required to amend its effective form at least 30 calendar days prior to the date of implementation of a material change to the operations of the ATS or to the activities of the broker-dealer operator or its affiliates that are subject to disclosure on the form. The Commission stated that a scenario that is likely to implicate a material change to the operations of an ATS would likely include the introduction or removal of a new order type on the ATS. *See* Regulation of NMS Stock Alternative Trading Systems, Securities Exchange Act Release No. 76474 (November 18, 2015), 80 FR 80998, 81027–28 (December 28, 2015).

[8] An ATS may use a relevant reference price other than the NBBO if, for example, it pegs to the primary market for a security or pegs to the Protected Best Bid or Offer.

[9] FINRA notes that ATSs are currently required to capture and maintain several categories of order-specific information for both displayed and non-displayed orders. For example, ATSs are required to capture the time an order was received, the number of shares to which the order applies, any limit or stop price prescribed by the order, any instructions to modify or cancel the order, the time the order was executed, the price at which the order was executed, and the size at which the order was executed. *See* 17 CFR 242.302(c).

Similarly, ATSs are currently required to report a variety of order-specific information to FINRA via OATS. For example, upon receipt of an order, a member must report the number of shares to which the order applies, any limit or stop price prescribed in the order, special handling requests, and the time at which the order is received. *See* Rule 7440(b). Upon the modification or execution of an order, the member must report the time of modification or execution, whether the order was fully or partially executed, the number of unexecuted shares remaining if the order was only partially executed, and the execution price. *See* Rule 7440(d).

FINRA is able to identify the specific order that is represented in quote ID #5678.

The proposed requirements for ADF Trading Centers largely replicate the requirements applicable to ADF Trading Centers that were proposed in *Regulatory Notice* 14–51. In response to comments, however, FINRA modified the types of identifiers that ADF Trading Centers are required to report to FINRA. As proposed in *Regulatory Notice* 14–51 proposal, ADF Trading Centers were required to report, for each order that is part of the displayed bid or offer, the unique identifier that the ADF Trading Center assigned to the order. ADF Trading Centers were also required to report the quote identifier that it provided to the ADF. In this proposal, FINRA is requiring that an ADF Trading Center report the quote identifier that it provided to the ADF if a new order is transmitted to the ADF, or a new quote identifier even when there is no change in the order itself (*e.g.,* another order is cancelled making the order being held the best-priced order in the matching engine). These requirements will enable FINRA to identify all orders that make up a specific quote displayed on the ADF, thereby enhancing surveillance of the ADF, while not unduly burdening ATSs that are ADF Trading Centers by requiring them to submit their own internal identifiers.

If the Commission approves the proposed rule change, FINRA will announce the effective date of the proposed rule change no later than 90 days following Commission approval. The effective date will be no later than 180 days following Commission approval.

2. *Statutory Basis*

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[10] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and Section 15A(b)(9) of the Act,[11] which requires that FINRA rules not impose any burden on competition that is not necessary or appropriate.

FINRA believes that this proposed rule change is consistent with the Act because it will greatly enhance FINRA's ability to surveil activity occurring within an ATS, and by extension FINRA's ability to surveil for potentially abusive algorithmic trading activity more generally across markets. For example, to effectively conduct quotation-based surveillance such as layering and quote spoofing, FINRA needs access to comprehensive order information and to the identity of firms that are generating ATS quotations. The proposed rule change would address such information gaps and would provide FINRA with additional information that can be integrated into FINRA's surveillance patterns to support alert generation and analysis. In addition, the proposed rule change would also increase FINRA's ability to detect the use of a display or non-display ATS by a market participant to further a wide range of other potential market-specific and cross-market manipulative activities that market participants may engage in by placing orders or executing trades on the ATS itself or across multiple ATSs or exchanges.

FINRA believes that applying this proposal to NMS stocks is consistent with the Act because the potentially abusive trading activity that the proposal is designed to detect, including, but not limited to, layering, quote spoofing, and mid-point pricing manipulation within ATSs and across markets is of particular concern with respect to NMS stocks.[12] While some of the data required to be reported under the proposed rule change may be captured as part of the Consolidated Audit Trail (''CAT''), FINRA strongly believes that gaps in ATS order book data must be addressed in the near-term, weighing the burdens to firms and the necessity of the change, to ensure effective surveillance of ATSs and by extension abusive algorithmic trading activity more generally across markets. FINRA therefore believes that this ATS reporting requirement should not be delayed due to the future implementation of CAT.[13] To the extent this proposed rule change requires the reporting of information that will also be captured by the CAT, FINRA would sunset the rule upon the implementation of the CAT requirement.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes will apply equally to all similarly situated ATSs. FINRA also notes that the proposed rule change is designed to assist FINRA in meeting its regulatory obligations by enhancing its ability to efficiently surveil activity occurring within ATSs and across markets.

Economic Impact Assessment

The purpose of the proposed rule change is to enhance FINRA's surveillance of potential abusive trading activity, including, but not limited to, layering, quote spoofing, and mid-point pricing manipulation within ATSs and across markets. Specifically, the proposal requires ATSs to report additional order information to FINRA, such as specific order types, and whether an order can be routed away from the ATS for execution, so that FINRA has the relevant information to reconstruct an ATS's order book for surveillance purposes.

For purposes of this rule proposal, FINRA defines the economic baseline as the current regulatory reporting requirements of an ATS to FINRA. Currently, each ATS has the same reporting requirements to FINRA related to OATS that apply to all FINRA members.[14] For instance, these obligations accrue when an ATS acts as a party to a securities transaction, such as matching buy and sell orders from its subscribers. Currently, ATSs do not have to notify FINRA of any amendments or additions to existing order types. FINRA requires each member, including an ATS, to associate its order types with one of the existing special handling codes defined in the OATS technical documentation. This association is not perfect, as the conditions on a specific order type offered by a firm or ATS may differ from the approximately 70 special handing codes identified in OATS.[15]

FINRA does not believe that this proposed rule change will impose a significant burden on its member firms that are ATSs. Given the level of order activity generated on ATSs, ATSs currently report a significant amount of order information to OATS. The proposed rule change would require an

[10] 15 U.S.C. 78*o*–3(b)(6).

[11] 15 U.S.C. 78*o*–3(b)(9).

[12] FINRA notes that OATS reporting requirements apply to OTC equity securities, as defined in Rule 6420, in addition to NMS stocks.

[13] By its terms, Rule 613 of SEC Regulation NMS, which sets forth the requirements for the CAT, will not require all broker-dealers to report to CAT until three years after the CAT plan is approved. *See* 17 CFR 242.613 (a)(3)(vi).

[14] In addition to the OATS reporting requirements, ATSs were required to calculate their volume information pursuant to Rule 4552 through January 31, 2016, and were required to report this data to FINRA by February 9, 2016. FINRA began calculating ATS volume data based on trade reports on February 1, 2016.

[15] *See* ''OATS Reporting Technical Specifications'' at *http://www.finra.org/sites/default/files/OATSTechSpec_01112016.pdf* for a full list of special handling codes.

ATS to supplement its current submissions with the additional information described herein using the existing OATS gateway. In so doing, the proposal minimizes duplication with OATS reporting and the potential impact on ATSs, while providing FINRA with the necessary order information to perform more comprehensive order-based surveillance of ATSs and the market as a whole. FINRA does not believe that this proposed rule change would require ATSs to generate significant new information relating to orders; rather it would require ATSs to report information already compiled as part of operating their order books, and for which the ATSs are already obligated to capture under Regulation ATS.[16] In addition, as described above, FINRA has revised the proposal as published in *Regulatory Notice* 14–51 so that FINRA will obtain order information that will enhance its surveillance of ATS activity, while not imposing undue reporting requirements on ATSs.

FINRA expects that there will be approximately 42 ATSs that will be impacted by the rule change, where they will be required to report additional information at the time of the order receipt and order execution. Of those, five are identified as display ATSs, and therefore will be subject to additional reporting requirements at the time of the order receipt such as whether the order is hidden or displayable, display quantity, reserve quantity, displayed price and price entered.[17] However, based on a series of communications with a sample of ATSs, FINRA understands that ATSs already collect and store such information, including the NBBO at the time of the order receipt and execution.

FINRA also acknowledges that ATSs may incur some costs associated with updating their reporting systems to reflect the new requirements introduced by this rule proposal. However, some of the reporting requirements under this Rule, such as an indicator whether the order can be routed away from the ATS and display size, have already been implemented due to the National Market System Plan to Implement a Tick Size Pilot Program,[18] and reporting additional data fields are expected to create marginal reporting costs for member firms that are ATSs. Therefore, the proposed rule change is not expected to create an unnecessary burden on member firms that are ATSs.

As of February 2016, there are no ATSs that are also ADF Trading Centers and the requirements on reporting quote identifiers would not be applicable to the approximately 42 ATSs that are active at the time of the writing of this filing.

Pursuant to Section 19(b)(1) of the Act[19] and Rule 19b-4 thereunder,[20] exchanges have to file with the SEC when they intend to eliminate, amend and add to the existing order types, modifiers and related references. The proposed rule change introduces similar pre-use reporting requirements for ATSs which currently have no such reporting requirements to FINRA, and hence would impose comparable obligations between execution venues as it relates to the introduction of new order types.[21]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

This proposal, in addition to another proposal involving OATS order reporting, was published for comment in *Regulatory Notice* 14–51 (November 2014).[22] Five comments were received in response to the *Regulatory Notice*.[23] A copy of *Regulatory Notice* 14–51 is attached as Exhibit 2a. A list of comment letters received in response to *Regulatory Notice* 14–51 is attached as Exhibit 2b, and copies of the five comment letters that addressed the proposed rule change are attached as Exhibit 2c.[24]

As proposed in *Regulatory Notice* 14–51, ATSs would be required to report additional order information that is not currently captured in OATS, which would enable FINRA to better recreate the full ATS order book. This would include all events and order attributes that would change the ATS's system quantity (the number of shares of an order, whether displayed or undisplayed, that can currently execute within the ATS), the displayed quantity, highest (buy orders) or lowest (sell orders) price at which the order may be executed, and the displayed price for an order. As initially proposed, an ATS also would have been required to provide, for every order, the associated OATS identifier, which would link information about that order to the related information and full lifecycle reported to OATS. That proposal would have applied to any ATS that accounted for more than 0.25% of consolidated market share in any security over a one-month period. Once an ATS had exceeded the threshold for one security, it would have been required to report order information for all securities for which the ATS receives an order. As proposed, an ATS that triggered the reporting requirement would have had to fall under the 0.25% threshold and remain there for six months before being relieved of its reporting obligation.

While some of the commenters supported the overall goal of increased surveillance of ATSs and increased transparency of ATS operations,[25] all the commenters opposed some aspect of the proposal, with commenters primarily criticizing the proposed requirement that ATSs report re-pricing events for pegged orders. Multiple commenters argued that this part of the proposal would require ATSs to record and generate information that they do not currently capture.[26] Commenters noted that an ATS may not necessarily re-price an order due to a change in the NBBO, especially if it does not display or route orders to other market centers.[27] Commenters noted that the proposal, and particularly the requirement to report re-pricing events for pegged orders, would generate a substantial number of new OATS records, which would place an additional burden on ATSs and might

[16] *See* 17 CFR 242.302.

[17] Of the five ATSs that are display ATSs, one ATS is an ECN that displays quotes on an exchange.

[18] *See* Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27514 (May 13, 2015) (File No. 4–657).

[19] 15 U.S.C. 78s(b)(1).

[20] 17 CFR 240.19b–4.

[21] FINRA notes that, under current Rule 301(b)(2)(ii) of SEC Regulation ATS, ATSs are required to file an amendment on Form ATS at least 20 calendar days prior to implementing a material change to the operation of the ATS. *See* 17 CFR 242.301(b)(2)(ii).

[22] The OATS non-member reporting proposal also described in *Regulatory Notice* 14–51 is not reflected in the current proposed rule change; consequently, comments on that proposal are not addressed.

[23] *See* Letter from Manisha Kimmel, Managing Director, Financial Information Forum, to Marcia E. Asquith, Secretary, FINRA, dated February 20, 2015 (''FIF''); Letter from John A. McCarthy, General Counsel, KCG Holdings, Inc., to Marcia E. Asquith, Secretary, FINRA, dated February 20, 2015 (''KCG''); Letter from Howard Meyerson, General Counsel, Liquidnet Inc., to Marcia E. Asquith, Secretary, FINRA, dated February 20, 2015 (''Liquidnet''); Letter from Theodore R. Lazo, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association, to Marcia E. Asquith, Secretary, FINRA, dated February 24, 2015 (''SIFMA''); and Letter from Mark Holder, Managing Director, UBS Securities LLC, to Marcia E. Asquith, Secretary, FINRA, dated February 26, 2015 (''UBS'').

[24] The Commission notes that the exhibits referred to in the Notice, 2a, 2b, and 2c, are exhibits to the proposed rule change, not to this Notice.

[25] *See* KCG Letter at 4; SIFMA Letter at 2; UBS Letter at 1.

[26] *See* FIF Letter at 2, KCG Letter at 4–5; SIFMA Letter at 3; UBS Letter at 2.

[27] *See* FIF Letter at 2; KCG Letter at 4; UBS Letter at 2. One commenter suggested that some of the stated goals of the proposal, *e.g.,* detection of spoofing and layering, may not be applicable to ATSs that do not display or route orders. *See* FIF Letter at 3.

create latency.[28] Liquidnet noted that midpoint pegged orders constitute all of its order flow, and that reporting re-pricings of pegged orders would impose a heavy reporting burden on it.[29] Commenters stated that the new requirements might also necessitate the creation of real-time OATS generation, rather than end-of-day batching.[30]

Several commenters also stated that the proposal should be modified to reflect the differences between exchanges and ATSs. Commenters noted that ATSs may use variants of price/time priority, and may also allow subscribers to opt out of executing against certain order flow.[31] As a result, it may appear that an ATS is not executing against available interest. Commenters also noted that the proposal should be modified to reflect the fact that not all ATSs operate similarly, *e.g.,* order handling and execution methodologies may differ among ATSs.[32]

FIF recommended that the proposed 0.25% volume threshold should be modified so that it is consistent with the current fair access threshold of Regulation ATS (ADV of five percent or more of the aggregate average daily share volume) or the Regulation SCI ATS threshold.[33] Liquidnet noted that FINRA already has access to NBBO data and suggested an alternative whereby the ATS could report, in connection with the execution of a midpoint pegged order, the BBO that the ATS referenced to derive its execution price.[34] UBS suggested enhancing existing OATS order attributes, rather than the current proposal, *e.g.,* the addition of special handling codes.[35]

After the close of the comment period, FINRA engaged in discussions with representatives of several ATSs to better understand their concerns with the proposal and to solicit input on possible alternatives to the proposal. In response to commenters and in furtherance of those discussions, FINRA has amended the proposal in several respects as noted above in Item II.A.1. The most significant change is the removal of the requirement for non-displayed ATSs to report changes in price or size, including changes to pegged orders each time the pegging price changes. Based on the comment letters and FINRA's subsequent discussions with several ATSs, such events generally would not be created by an ATS matching engine unless a new order on the opposite side of the market that is eligible to execute against that resting order is received and can match against the resting order. Consequently, the initial requirement to report re-pricing events would have required ATSs to create such events for the specific purpose of reporting to FINRA. FINRA believes that removing the requirement to report changes to price or size for non-displayed ATSs responds to commenters' concerns that the proposal is complex, will significantly impact members' OATS reporting practices, and will require members to create information that they do not currently capture. At the same time, FINRA believes that the revised proposal still enhances FINRA's surveillance capabilities by requiring ATSs that display subscriber orders to report this information. FINRA believes that this information is particularly relevant to display ATSs, and that FINRA does not currently possess this information.

FINRA has also amended the proposal to remove the volume-based threshold that would trigger the reporting requirements. FINRA believes that removing the reporting threshold will increase the number of ATSs that report the proposed order information, and by extension increase FINRA's ability to enhance its surveillance of trading and order activity occurring on or through ATSs. At the same time, FINRA notes that removing the proposed reporting threshold should not significantly impact the reporting status of most ATSs, since the majority of ATSs would have satisfied the proposed reporting requirement. To the extent that FINRA is distinguishing among ATSs in setting forth reporting requirements, FINRA believes that a more useful distinction is between non-display and display ATSs, as it is currently proposing.

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 self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2016–010 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2016–010. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2016–010, and should be submitted on or before March 28, 2016.

[28] *See* FIF Letter at 2; KCG Letter at 4; SIFMA Letter at 3–4.

[29] *See* Liquidnet Letter at 2.

[30] *See* FIF Letter at 2; KCG Letter at 5; UBS Letter at 3.

[31] *See* FIF Letter at 3; SIFMA Letter at 3.

[32] *See supra* note 29.

[33] *See* FIF Letter at 2. FIF also suggested that any changes to order reporting should not be undertaken through OATS but through changes to the functionality of CAT. *See* FIF Letter at 3.

[34] *See* Liquidnet Letter at 2.

[35] *See* UBS Letter at 3.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–04912 Filed 3–4–16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77265]

Order Granting Exemptions From Certain Provisions of Rule 613 Pursuant to Section 36(a)(1) of the Securities Exchange Act of 1934

March 1, 2016.

I. Introduction

On July 11, 2012, the Securities and Exchange Commission (''Commission'' or ''SEC'') adopted Rule 613 under the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act'') to require national securities exchanges and national securities associations (''self-regulatory organizations'' or ''SROs'') to jointly submit a national market system (''NMS'') plan to create, implement, and maintain a consolidated order tracking system, or consolidated audit trail (''CAT''), with respect to the trading of NMS securities, that would capture customer and order event information for orders in NMS securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution (''CAT NMS Plan'').[1] Rule 613 required the SROs to file the CAT NMS Plan with the Commission on or before April 28, 2013. At the SROs' request, the Commission granted exemptions extending the deadline for the filing of the CAT NMS Plan to December 6, 2013,[2] and then to September 30, 2014.[3] The SROs filed a CAT NMS Plan on September 30, 2014.[4] On January 30, 2015, the SROs submitted the request for exemptive relief that is the subject of this Order.[5] On February 27, 2015, the SROs filed the Amended and Restated CAT NMS Plan that assumes their request for exemptive relief would be granted.[6] On April 3, 2015, the SROs filed a supplement to the Exemption Request.[7] On September 2, 2015, the SROs filed a second supplement to the Exemption Request.[8]

Rule 613 sets forth certain minimum requirements for the CAT NMS Plan that, among other things, relate to its operation and administration, data recording and reporting, clock synchronization and time stamps, the Central Repository, surveillance, compliance, and expansion to other securities and transactions.[9] Rule 613 also requires the CAT NMS Plan to discuss a number of more specific ''considerations,'' such as: The method by which data will be reported to the Central Repository; how and when it will be made available to regulators; the reliability and accuracy of the data; the security and confidentiality of the data; cost estimates and the impact on competition, efficiency and capital formation; the views solicited by the SROs from their members and other appropriate parties and how the SROs took those views into account; and alternative approaches considered by the SROs.[10]

In connection with their preparation of the Amended and Restated CAT NMS Plan, including assessing the considerations and the views of their members and other market participants, the SROs reached the conclusion that additional flexibility in certain of the minimum requirements specified in Rule 613 would allow them to propose a more efficient and cost-effective approach without adversely affecting the reliability or accuracy of CAT Data, or its security and confidentiality. Accordingly, on January 30, 2015, the SROs filed an application, pursuant to Rule 0–12 under the Exchange Act,[11] requesting that the Commission grant exemptions, pursuant to its authority under Section 36 of the Exchange Act,[12] from the requirement to submit a CAT NMS Plan that meets certain reporting requirements specified in Rule 613(c) and (d) as described below.[13] Specifically, the SROs' exemptive requests relate to: (1) The reporting of options market maker quotations, as required under Rule 613(c)(7)(ii) and (iv);[14] (2) the reporting and use of the Customer-ID under Rule 613(c)(7)(i)(A), (iv)(F), (viii)(B) and 613(c)(8);[15] (3) the reporting of the CAT-Reporter-ID, as required under Rule 613(c)(7)(i)(C), (ii)(D), (ii)(E), (iii)(D), (iii)(E), (iv)(F), (v)(F), (vi)(B), and (c)(8);[16] (4) the linking of executions to specific subaccount allocations, as required under Rule 613(c)(7)(vi)(A);[17] and (5) the time stamp granularity requirement of Rule 613(d)(3)[18] for certain manual order events subject to reporting under Rule 613(c)(7)(i)(E), (ii)(C), (iii)(C) and (iv)(C).[19]

Section 36 of the Exchange Act grants the Commission the authority, with certain limitations, to ''conditionally or unconditionally exempt any person, security, or transaction . . . from any provision or provisions of [the Act] or of any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.''[20] For the reasons set forth below, this Order grants the SROs' request for exemptions from the specified provisions of Rule 613.

[36] 17 CFR 200.30–3(a)(12).

[1] *See* Securities Exchange Act Release No. 67457 (July 18, 2012), 77 FR 45722 (August 1, 2012) (''Adopting Release'').

[2] *See* Securities Exchange Act Release No. 69060 (March 7, 2013), 78 FR 15771 (March 12, 2013); *see also* Letter from Robert L.D. Colby, Executive Vice President and Chief Legal Officer, FINRA, to Elizabeth M. Murphy, Secretary, Commission, dated February 7, 2013.

[3] *See* Securities Exchange Act Release No. 71018 (December 6, 2013), 78 FR 75669 (December 12, 2013); *see also* Letter from Robert L.D. Colby, Executive Vice President and Chief Legal Officer, FINRA, to Elizabeth M. Murphy, Secretary, Commission, dated November 7, 2013.

[4] *See* Letter from the SROs, to Brent J. Fields, Secretary, Commission, dated September 30, 2014.

[5] *See* Letter from Robert Colby, FINRA, on behalf of the SROs, to Brent J. Fields, Secretary, Commission, dated January 30, 2015 (''Exemption Request Letter'').

[6] *See* Letter from the SROs, to Brent J. Fields, Secretary, Commission, dated February 27, 2015 (''Amended and Restated CAT NMS Plan''). On December 24, 2015, the SROs submitted an Amendment to the CAT NMS Plan. *See* Letter from SROs to Brent J. Fields, Secretary, Commission, dated December 23, 2015 (the ''Amendment''). On February 9, 2016, the SROs filed with the Commission an identical, but unmarked, version of the CAT NMS Plan, dated February 27, 2015, as modified by the Amendment, as well as a copy of the request for proposal issued by the SROs to solicit bids from parties interested in serving as the Plan Processor for the consolidated audit trail. Unless the context otherwise requires, the ''CAT NMS Plan'' shall refer to the CAT NMS Plan, as modified by the Amendment.

[7] *See* Letter from Robert Colby, FINRA, on behalf of the SROs, to Brent J. Fields, Secretary, Commission, dated April 3, 2015 (''April 2015 Supplement'').

[8] *See* Letter from the SROs to Brent J. Fields, Secretary, Commission, dated September 2, 2015 (''September 2015 Supplement''). Unless the context otherwise requires, the ''Exemption Request'' shall refer to the Exemptive Request Letter, as supplemented by the April 2015 Supplement and the September 2015 Supplement.

[9] 17 CFR 242.613(b)–(i). Unless otherwise noted or defined in this Order, capitalized terms are used as defined in Rule 613 or the CAT NMS Plan.

[10] 17 CFR 242.613(a)(1).

[11] 17 CFR 240.0–12.

[12] 15 U.S.C. 78mm.

[13] *See* 17 CFR 242.613(c)(7), (c)(8), (d)(3); *see also* Exemption Request Letter, *supra* note 5.

[14] *See* 17 CFR 242.613(c)(7)(ii), (iv).

[15] *See* 17 CFR 242.613(c)(7)(i)(A), (iv)(F), (viii)(B), (c)(8).

[16] *See* 17 CFR 242.613(c)(7)(i)(C), (ii)(D), (ii)(E), (iii)(D), (iii)(E), (iv)(F), (v)(F), (vi)(B), and (c)(8).

[17] *See* 17 CFR 242.613(c)(7)(vi)(A).

[18] *See* 17 CFR 242.613(d)(3).

[19] *See* 17 CFR 242.613(c)(7)(i)(E), (ii)(C), (iii)(C) and (iv)(C).

[20] 15 U.S.C. 78mm(a)(1).

II. Description and Discussion of Exemption Request

After reviewing the Exemption Request described below, the Commission believes that it is appropriate in the public interest and consistent with the protection of investors to grant the requested exemptive relief. As discussed more fully below, the Commission is persuaded to provide flexibility in the discrete areas discussed in the Exemption Request so that the alternative approaches can be included in the CAT NMS Plan and subject to notice and comment. Doing so could allow for more efficient and cost-effective approaches than otherwise would be permitted. The Commission at this stage is not deciding whether the proposed approaches detailed below are more efficient or effective than those in Rule 613.[21] However, the Commission believes the proposed approaches should be within the permissible range of alternatives available to the SROs.

The Commission also believes granting the requested exemptive relief is consistent with the protection of investors. Doing so will provide the public an opportunity to consider and comment on whether these proposed alternative approaches would indeed be more efficient and cost-effective than those otherwise required by Rule 613, and whether such approaches would adversely affect the reliability or accuracy of CAT Data or otherwise undermine the goals of Rule 613. Moreover, if—as the SROs represent—efficiency gains and cost savings would result from including the proposed approaches in the CAT NMS Plan without adverse effects, then the resultant benefits could potentially flow to investors (*e.g.,* lower broker-dealer reporting costs resulting in fewer costs passed on to Customers).

The CAT NMS Plan has not yet been published for public comment. The Commission is not concluding at this time that a CAT NMS Plan incorporating the additional flexibility provided by the exemptive relief granted in this Order is necessary or appropriate in the public interest. That evaluation will be made only after the Commission considers the public comments, completes its economic analysis, and fully assesses the CAT NMS Plan. Instead, by granting the requested exemptive relief, the Commission only is providing the SROs more latitude in proposing a CAT NMS Plan, in certain discrete areas, as specifically proposed in the Exemption Request.

A. Options Market Maker Quotes

1. The SROs' Proposed Approach to Options Market Maker Quotes

Rule 613(c)(7) provides that the CAT NMS Plan must require each national securities exchange, national securities association, and any member of such exchange or association (''CAT Reporter'') to record and electronically report to the Central Repository details for each order and each reportable event, including the routing and modification or cancellation of an order.[22] Rule 613(j)(8) defines ''order'' to include ''any bid or offer;'' so that the details for each options market maker quotation must be reported to the Central Repository by both the options market maker and the exchange to which it routes its quote.[23] In the Exemption Request, the SROs request an exemption from Rule 613(c)(7)(ii) and (iv) and propose an approach whereby only options exchanges—but not options market makers—would be required to report information to the Central Repository regarding options market maker quotations.[24]

The SROs do not believe that their proposed approach would have an adverse effect on the various ways in which, and purposes for which, regulators would use, access, and analyze CAT Data.[25] The SROs believe that the information contemplated by Rule 613 to be submitted by options market makers, as a practical matter, would be largely identical to the information to be submitted by the options exchanges. For each quote received by an options exchange, the exchange would need to submit the CAT Order ID, the date and time the order is *received,* the CAT Reporter ID of the market maker and the exchange, and the material terms of the order.[26] For each quote routed by a market maker, the market maker would need to submit the CAT Order ID, the date and time the order is *routed,* the CAT Reporter ID of the market maker and the exchange to which the order is routed, and the material terms of the order.[27] The SROs note that the volume of options market maker quotes is larger than any other category of data to be reported to the CAT, generating approximately 18 billion daily records, and believe that requiring duplicative reporting of this already large amount of data would lead to a substantial increase in costs.[28]

The one data element that would not be captured in the options market maker quoting data to be submitted by the options exchange is the time the market maker routes its quote, or any modification or cancellation thereof, to an exchange (''Quote Sent Time'').[29] Accordingly, to ensure that regulators would receive all of the information contemplated by Rule 613(c)(7), the approach proposed by the SROs would require that (1) members report to the relevant options exchange the Quote Sent Time along with any quotation, or any modification or cancellation thereof; and (2) options exchanges submit the quotation data received from options market makers, including the Quote Sent Time, to the Central Repository without change.[30]

The SROs, in consultation with their members, Bidders and the Development Advisory Group (''DAG''),[31] believe that the proposed approach is ''the most efficient and cost-effective way'' to meet the Commission's goals under Rule 613 and that the proposed approach would provide the Commission with options market maker quote data at a lower cost to market participants and at a lower cost to the CAT Plan Processor without compromising the goals of the CAT.[32] In support, the SROs included a cost-benefit analysis of options data reporting approaches in the Exemption Request.[33] The SROs argue in their cost-benefit analysis that eliminating Rule 613(c)(7)'s requirement that *both* options market makers and options exchanges report nearly identical quotation data to the Central Repository has the potential effect of reducing the

[21] The Commission notes that the public will have an opportunity to comment on the alternative approaches discussed in the Exemption Request, and permitted by this Order, when the CAT NMS Plan is published for notice and comment. For this reason, the Commission did not separately publish this Order for public comment prior to its issuance today.

[22] *See* 17 CFR 242.613(c)(7).

[23] *See* 17 CFR 242.613(j)(8).

[24] *See* Exemption Request Letter, *supra* note 5, at 4–5.

[25] *See id.* at 8; *see also* 17 CFR 242.613(a)(1)(ii) (consideration requiring discussion of the time and method by which the data in the Central Repository will be made available to regulators).

[26] *See* 17 CFR 242.613(c)(7)(iii).

[27] 17 CFR 242.613(c)(7)(ii). Rule 613(c)(7)(ii)(F) requires reporting of the identity and nature of the department or desk to which an order is routed internally at a broker-dealer. In the context of options market maker quoting, internal routing information is not applicable.

[28] *See* Exemption Request Letter, *supra* note 5, at 2. In the Exemption Request Letter, the SROs explain why options market makers generate a high volume of quotations. *See id.* at 5–6.

[29] *See* 17 CFR 242.613(c)(7)(ii)(C).

[30] *See id.* at 3–4.

[31] The DAG is an industry advisory group formed to advise the SROs on various aspects of the CAT and its development, including impact upon CAT participant firms and the broader industry.

[32] *See* Exemption Request Letter, *supra* note 5, at 6.

[33] *Id.* at 6–7.

projected capacity requirements and other technological requirements for the Central Repository, which would result in significant cost savings.[34] The SROs estimate that requiring only options exchanges to report market maker quote information would reduce the size of data reported to CAT by 18 billion records per day.[35] The SROs represent that those entities that responded to the SROs' Request for Proposal seeking to be the CAT Plan Processor (''Bidders'') indicated that the additional cost of dual reporting of options market maker quotes over five years would be between $2 million and $16 million for data storage and technical architecture.[36] Further, the SROs state that if options market makers are required to report quotation information, options market makers would incur direct costs for additional hardware to store and process the information, as well as costs to develop and maintain the new systems.[37]

The SROs represent in the Exemption Request that they solicited the views of their members and other appropriate parties to ensure that the SROs considered a variety of informed views.[38] In particular, the SROs note that they and the industry discussed the results of a survey on options market makers reporting quotation information costs conducted by the Financial Information Forum (''FIF''), the Securities Industry and Financial Markets Association (''SIFMA''), and the Security Traders Association (''STA''). Based on survey responses, FIF, SIFMA, and STA estimated that over a five-year period it could cost between $307.6 million and $382 million for options market makers to comply with Rule 613(c)(7)'s reporting requirements.[39] According to the SROs, the survey found that a disproportionate amount of this cost would fall on smaller market maker firms.[40] FIF, SIFMA, and STA also noted that without an exemption, the industry could be subject to further indirect costs arising in connection with the infrastructure scaling required for the extra capacity necessary across processors, storage, network bandwidth, system performance, operations management in production, disaster recovery, development, and testing CAT systems to maintain the duplicative data.[41]

In their Exemption Request, the SROs represent that they do not believe that their proposed approach for reporting options market maker quotation information to the Central Repository would impact the reliability or accuracy of CAT Data,[42] or its security and confidentiality.[43] Further, the SROs believe that by eliminating unnecessary duplication of reported information, their proposed approach would have a positive effect on competition, efficiency, and capital formation.[44] The SROs note that their proposed approach would provide regulators with the quote data necessary for the surveillance of options market makers and would not jeopardize the important goals of CAT.[45] Finally, the SROs state that in the course of considering the requirements of Rule 613 as they relate to options market marker quotations, they considered three primary alternative approaches: (1) Complying with Rule 613 as written, (2) requiring options market makers to submit their Quote Sent Times directly to the Central Repository, and (3) the proposed approach, and found the proposed approach to be preferred.[46]

2. Discussion of the SROs' Proposed Approach to Options Market Maker Quotes

The Commission has carefully considered the information provided by the SROs in support of the SROs' exemption request from Rule 613(c)(7)(ii) and (iv)[47] with respect to the reporting of options market maker quotes. The Commission believes it is appropriate to provide sufficient flexibility so as not to preclude the approach described by the SROs in the Exemption Request.

Based on the information provided by the SROs in the Exemption Request, the Commission is persuaded to grant exemptive relief to provide flexibility such that the alternative approach to collecting options market maker quotations described in the Exemption Request can be included in the CAT NMS Plan and subject to notice and comment. The SROs' describe an approach that could result in Options Market Maker quotation data, including Quote Sent Time, being reported to the Central Repository singly by the options exchanges rather than dually by both the options exchanges and Options Market Makers. To the extent the options exchanges would report the same data otherwise reported by Options Market Makers in an efficient, accurate and reliable manner, then the ability of the Commission and the SROs to access and use CAT Data should not be adversely affected. Moreover, the potentially lower cost associated with eliminating duplicative reporting and storage of such data represents a possible benefit.

Therefore, the Commission finds it is appropriate in the public interest and consistent with the protection of investors to exempt the SROs from Rule 613(c)(7)(ii) and (iv). The Commission notes that the proposed approach described in the Exemption Request would require that: (1) Options market makers report to the relevant options exchange the Quote Sent Time along with any quotation, or any modification or cancellation thereof; and (2) the options exchange submits the quotation data received from options market makers, including the Quote Sent Time, to the Central Repository without change.

B. Customer ID

1. The SROs' Proposed Approach to Customer ID

i. Customer Information Approach

Rule 613(c)(7)(i)(A) requires that for the original receipt or origination of an

[34] *See id.* at 7.

[35] *Id.*

[36] *Id.* at 2.

[37] *Id.* at 7.

[38] *See id.* at 6. Rule 613(a)(1)(xi) provides that the SROs' must discuss in the CAT NMS Plan the process by which the plan sponsors solicited views of their members and other appropriate parties regarding the creation, implementation, and maintenance of the consolidated audit trail, a summary of the views of such members and other parties, and how the plan sponsors took such views into account in preparing the national market system plan.

[39] *See id.* at 7. The SROs also note that SIFMA has stated that options market makers should not be required to report their quotes to the Central Repository due to the large volume of such quotes and the ability to obtain such quotation information from the options exchanges. *Id.* at 6. The estimate in the survey represents the cost for options market makers to fully comply with Rule 613(c)(7). However, the Commission notes that although the proposed approach eliminates the cost of such compliance, it adds the requirement to report Quote Sent Time.

[40] *See id.* at 7. The survey showed that smaller market maker firms would bear 33% of the implementation costs while only accounting for 6%–7% of the volume. *Id.*

[41] *Id.* The Commission notes that these items are not included in the estimates of costs of complying with Rule 613(c)(7) absent an exemption.

[42] *See id.* at 7–8; *see also* 17 CFR 242.613(a)(1)(iii) (consideration requiring discussion of the reliability and accuracy of the proposed approach).

[43] *See* Exemption Request Letter, *supra* note 5, at 7–8; *see also* 17 CFR 242.613(a)(1)(iv) (consideration requiring discussion of the security and confidentiality issues of the proposed approach).

[44] *See* Exemption Request Letter, *supra* note 5, at 8; *see also* 17 CFR 242.613(a)(1)(viii) (consideration requiring discussion of competition, efficiency, and capital formation).

[45] *See* Exemption Request Letter, *supra* note 5, at 6.

[46] *See id.* at 8; *see also* 17 CFR 242.613(a)(1)(xii) (consideration requiring discussion of alternatives considered).

[47] 17 CFR 242.613(c)(7)(ii) and (iv).

order, a CAT Reporter report the ''Customer-ID(s) for each Customer.'' [48] ''Customer-ID'' is defined in Rule 613(j)(5) to mean ''with respect to a customer, a code that uniquely and consistently identifies such customer for purposes of providing data to the central repository.'' [49] Rule 613(c)(8) further requires that ''[a]ll plan sponsors and their members shall use the same Customer-ID and CAT-Reporter-ID for each customer and broker-dealer.'' [50] In the Exemption Request, the SROs request an exemption from the requirements in Rule 613(c)(7)(i)(A) and Rule 613(c)(8) that Customer-IDs be reported to the Central Repository upon the original receipt or origination of an order and propose using the ''Customer Information Approach.'' [51]

The SROs state that they do not believe that the Customer Information Approach, described below, would have an adverse effect on the various ways in which, and purposes for which, regulators would use, access, and analyze the audit trail data reported under Rule 613.[52] In particular, the SROs do not believe that the Customer Information Approach will compromise the linking of order events, alter the time and method by which regulators may access the data, or limit the use of the CAT audit trail data because the unique nature of the existing identifiers to be used under the Customer Information Approach would allow the Plan Processor to create customer linkages with the same level of accuracy as the Customer-ID.[53]

The SROs also note that the Bidders, each of whom incorporated the Customer Information Approach in its Bid, asserted that the Customer Information Approach, described below, would allow all events pertaining to an order to be reliably and accurately linked together in a manner that allows regulators efficient access to complete order information.[54] Similarly, the SROs note that according to the Bidders, the Customer Information Approach would not impact the time and method by which linked data in the Central Repository would be made available to regulators.[55] Further, the SROs believe that because the Plan Processor will create and maintain unique Customer-IDs upon receipt of data from CAT Reporters, regulators would still be able to access CAT Data through unique Customer-IDs.[56]

Under the Customer Information Approach, instead of requiring a universal Customer-ID for each Customer to be used for all orders, the CAT NMS Plan would require each broker-dealer to assign a unique firm-designated identifier (''FDI'') to each trading account.[57] Broker-dealers would be permitted to use an account number or any other identifier defined by the firm as the FDI, provided each identifier is unique across the firm for each business date (*i.e.,* a single firm may not have multiple separate customers with the same identifier on any given date). In addition, the CAT NMS Plan would require broker-dealers to submit an initial set of information identifying the Customer to the Central Repository, including, but not limited to, the account type, account effective date (as applicable), the Customer's name, address, date of birth, tax identification number or social security number, individual's role in the account (*e.g.,* primary holder, joint holder, guardian, trustee, person with the power of attorney), Legal Entity Identifier (''LEI'') [58] (if applicable), and Large Trader ID (if applicable).[59] Using the FDI and the other information identifying the Customer that would be reported to the Central Repository, the Plan Processor would then assign a unique Customer-ID to each Customer.[60] Under the Customer Information Approach and as set forth in the Exemption Request, upon original receipt or origination of an order, broker-dealers would only be required to report the FDI on each new order, rather than a Customer-ID as required by Rule 613(c)(7)(i)(A). In addition, under the Customer Information Approach, all broker-dealers would not be reporting the same Customer-ID for the Customer, as would be required by Rule 613(c)(8). The Customer-ID generated by the Plan Processor would remain within the Central Repository; it would not be sent back to the broker-dealers.[61]

To ensure that the data elements relating to the identity of every Customer in the Central Repository is complete and accurate, the SROs represent in their Exemption Request that broker-dealers would be required to submit to the Central Repository daily updates for reactivated accounts, newly established or revised FDIs, or reportable Customer identifying information.[62] The SROs add that because reporting to the Central Repository is on an end-of-day basis, intra-day changes to information could be captured as part of the daily updates to the information.[63] In addition to daily updates, broker-dealers would be required to submit periodic, full refreshes of Customer information to the Central Repository.[64] The SROs represent that the scope of the ''full'' Customer information refresh would need to be defined to determine the extent to which inactive or otherwise terminated accounts would need to be reported.[65] Daily updates would consist of new account information and changes to existing account data, such as changes to name or address information.[66] Periodic full refreshes would require CAT Reporters to submit a complete dataset of all Customer Account Information, and would be used as a consistency check to help ensure completeness, consistency, and accuracy of information previously submitted to the account database.[67]

The Exemption Request describes the process by which the SROs solicited views of their members and other appropriate parties regarding the Customer Information Approach.[68] The SROs held technical committee meetings to discuss particular items related to the Customer Information Approach and sought the input of the

[48] *See* 17 CFR 242.613(c)(7)(i)(A).

[49] *See* 17 CFR 242.613(j)(5).

[50] *See* 17 CFR 242.613(c)(8).

[51] Because the Plan Processor will still assign a Customer-ID to each Customer under the Customer Information Approach, the SROs are not requesting an exemption from Rule 613(j)(5).

[52] *See* Exemption Request Letter, *supra* note 5, at 15.

[53] *Id.*

[54] *Id.*

[55] *Id.* at 15–16.

[56] *Id.* at 16.

[57] *Id.* at 9–10.

[58] The SROs further note in the Exemption Request where a validated LEI is available for a Customer or entity, it may obviate the need to report other identifier information (*e.g.,* customer name, address, TIN). *See id.* at 10 n.28.

[59] *See id.* at 9–10. The Commission notes that the SROs have not requested an exemption from the requirement that the ''customer type'' (*e.g.,* retail, mutual fund, broker-dealer proprietary) be reported to the Central Repository. *See* Rule 613(c)(viii)(B) and Rule 613(j)(4).

[60] *See* Exemption Request Letter, *supra* note 5, at 10.

[61] *Id.* Under Rule 613, broker-dealers would have to obtain a Customer-ID for each customer from the Central Repository. Then, when reporting the origination of an order to the Central Repository, the broker-dealer would have to include the Customer-ID in the report. *See* 17 CFR 242.613(c)(7)(i)(A).

[62] *See* Exemption Request Letter, *supra* note 5, at 10 & n.29.

[63] *Id.* at 10.

[64] *Id.*

[65] *Id.*

[66] *Id.*

[67] *Id.* The SROs also note that the specific formats in which information is provided to the Central Repository that must be submitted for the required Customer information would be developed by the CAT Plan Processor and approved by the SROs. *Id.* at 10.

[68] *See id.* at 14.

Bidders on the use of Customer-IDs.[69] The SROs also had numerous discussions with the DAG, which, according to the SROs, strongly supports the Customer Information Approach.[70] The SROs note that the DAG believes that the Customer Information Approach satisfies the Commission's goal of associating order information reported to the CAT with individual Customers, while minimizing the technological burden on broker-dealers and the associated costs by permitting broker-dealers to leverage existing methods of identifying Customers.[71] In addition, the SROs note in the Exemption Request that the Customer Information Approach is consistent with the views expressed by industry associations such as FIF and SIFMA; both associations objected to the use of unique Customer identifiers and recommended that alternatives to this requirement be considered, including the use of existing identifiers.[72]

The SROs believe that the reliability and accuracy of the data reported to the Central Repository under the Customer Information Approach is the same as under the approach outlined in Rule 613 with regard to Customer-IDs because the identifiers used under the proposed Customer Information Approach are also unique identifiers.[73] In some cases, the SROs believe that the Customer Information Approach may result in more accurate data because errors may be minimized since broker-dealers will not have to adjust their systems to capture and maintain the additional Customer-ID data element, and only a single entity will have to perform the mapping of firm-designated account information to Customer-ID.[74] Thus, according to the SROs, the reliability and accuracy of the audit trail data reported under Rule 613 would not be compromised during: (1) Its transmission and receipt from market participants; (2) data extraction, transformation, and loading at the Central Repository; (3) data maintenance and management at the Central Repository; or (4) use by regulators.[75]

The SROs believe that the Customer Information Approach would strengthen the security and confidentiality of the information reported to the Central Repository, thereby maintaining the efficacy of the Central Repository and the confidence of the market participants.[76] The SROs note DAG members' concerns about potential data breaches, including the increased risk of identity theft, caused by the use of a single universal Customer-ID that is maintained across all CAT Reporters and all order events.[77] The SROs also note that a universal identifier that is tied to personally identified information (''PII'') could create a substantial risk of misuse and of possible identify theft as the universal identifiers are passed between the Plan Processor and each CAT Reporter.[78] The SROs further state that individual firms may not have consistent levels of data security, and the widespread use of Customer-IDs across multiple firms would mean that if a Customer-ID was compromised at one firm, it would be compromised at all firms, increasing the associated risk of identity theft and data privacy loss issues.[79] The SROs note that this differs from the Customer Information Approach, where CAT Reporters would use existing identifiers that are not shared across firms and Customer-IDs would reside solely in the Central Repository, known only to the Plan Processor and regulatory staff of the Commission and SROs.[80] Additionally, the SROs note that for CAT Reporters who report events in real-time, the risk and impact of a universal Customer-ID being stolen or misused would be magnified when compared to a FDI.[81] According to the SROs, under the Customer Information Approach, the responsibility to secure information relating to every Customer would essentially lie with a single entity—the Plan Processor—instead of with all CAT Reporters, who may have varying degrees of technical sophistication and resources to maintain the security and confidentiality of CAT Data.[82]

The SROs also believe that the Customer Information Approach would be a more efficient and cost-effective method of identifying Customers and therefore would have a positive impact on competition, efficiency, and capital formation.[83] Among other things, the SROs note that Rule 613's Customer-ID requirement would necessitate significant infrastructure changes to existing broker-dealer business processes, which could inhibit smaller broker-dealers and make it more difficult for them to enter or compete in the market.[84] The SROs also note that requiring each CAT Reporter to report a unique Customer-ID may hinder new customer onboarding times.[85] The SROs state that the exemption would eliminate Rule 613's requirement that the Plan Processor distribute Customer-IDs to broker-dealers, increasing efficiency because a single entity—the Plan Processor—would be responsible for mapping, monitoring, and verifying the accuracy of the Customer-IDs and effecting corrections, rather than all CAT Reporters plus the Plan Processor.[86] In addition, the SROs note that the DAG emphasized that the Customer Information Approach would significantly reduce the costs to broker-dealers by permitting them to leverage their current technology to report to the Central Repository.[87]

In support of their request, the SROs also provide the costs to implement the Customer-ID requirement approach as set forth in Rule 613 in their Exemption Request.[88] The SROs note that industry members informed the SROs that the cost to implement the Customer-ID as required in Rule 613 for the top 250 broker-dealers that will be reporting to the CAT (''Top 3 Tiers of CAT Reporters'') would be at least $195 million.[89] To establish this cost

[69] The SROs also note that the Request for Proposal (''RFP'') and supporting RFP concepts document included a description of the Customer Information Approach. *Id.*

[70] *Id.* at 14 (citing to the FIF CAT Working Group: FIF Response to CAT NMS Plan, November 2014 Letter at 3; SIFMA Industry Recommendations).

[71] The SROs also note in support of the Customer Information Approach that there are many instances in which multiple Customers may be stakeholders in an order. For example, if an investment club has twenty members with each member being an owner of a single account and where each member is authorized to provide the broker-dealer with trading instructions for the club account, and the club places an order for that account with a broker-dealer, under Rule 613 the broker-dealer would have an obligation to provide a unique Customer-ID on the related order report for each member of the investment club. The SROs represent that multiple Customer-IDs would significantly increase the data footprint and, in turn, the data storage costs. However, under the Customer Information Approach, the SROs state that such broker-dealer would simply provide on its order report an FDI for the account held by the investment club which the Plan Processor would use to identify each Customer with an ownership interest in that account. *See id.* at 14–15.

[72] *See id.* at 15.

[73] *Id.*

[74] *Id.*

[75] *Id.*

[76] *See id.* at 16.

[77] *Id.*

[78] *Id.*

[79] *Id.*

[80] *Id.*

[81] *Id.*

[82] *Id.*

[83] *Id.*

[84] *Id.*

[85] The SROs explained that ''the customer onboarding process is often time-critical as new customers want to initiate business transactions immediately,'' and that under Rule 613's requirements, ''new customers would have a longer wait time for a new account as broker-dealers would be required to submit new customer information to the CAT Plan Processor in order to receive a unique Customer-ID.'' *Id.*

[86] *Id.* at 17.

[87] *Id.*

[88] *See id.* at 17–18.

[89] *See id.* at 18.

estimate, the industry members considered the costs associated with activities required to implement the Customer-ID, as required in Rule 613, including: (1) The analysis of the impact of implementation on broker-dealer systems; (2) the cost of capturing and storing the additional Customer data; (3) the implementation of workflow and system changes; (4) the maintenance and management of Customer-IDs; and (5) the education of staff.[90] Industry members estimated that these activities would require on average 10 person months [91] of business analysis, and a total implementation time of 30 person months at a staff cost of $1,200 per day, accounting for a per-firm cost of $780,120.[92] The SROs believe that this cost estimate is conservative given that it only includes the costs for 250 broker-dealers (11% of the total broker-dealers that are expected to report to the Central Repository).[93] The SROs believe that the Customer Information Approach would impose less costs than the Customer-ID approach but do not provide estimated costs of implementing the Customer Information Approach for comparison.[94]

The SROs note that they considered a variety of possible alternative approaches to complying with Rule 613, in addition to the Customer Information Approach.[95] For example, the SROs considered an approach that would have solely utilized account numbers, rather than account numbers and other unique identifying information, but concluded that relying solely on account numbers may raise issues regarding duplicate numbers under certain circumstances. After weighing the merits of these various approaches, the SROs concluded that the Customer Information Approach was the best option.[96]

ii. Modification and Cancellation

Rule 613(c)(7)(iv)(F) requires that ''[t]he CAT-Reporter-ID of the broker-dealer or Customer-ID of the *person* giving the modification or cancellation instruction'' be reported to the Central Repository.[97] In the Exemption Request, the SROs request an exemption from the requirement that CAT Reporters report the Customer-ID of the person giving the modification or cancellation instruction to the Central Repository so that CAT Reporters are instead allowed to report whether a modification or cancellation instruction was given by the Customer associated with the order, or was initiated by the broker-dealer or exchange associated with the order.[98]

According to the SROs, for regulatory purposes it is most critical to ascertain whether the modification or cancellation instruction was given by the Customer or was instead initiated by the broker-dealer or exchange, rather than capturing the specific person who gave the instruction.[99] The SROs also note that because Rule 613 only requires the reporting of the Customer-ID upon order origination, the Central Repository will not have the identity of the specific Customer who originated an order for an account with multiple owners, but rather the identity of all account holders and persons authorized to give trading instructions for that account.[100] Thus, according to the SROs, requiring the reporting of the individual person providing the modification or cancellation instruction would result in an inconsistent level of granularity between the Reportable Events of origination or receipt of an order, and the modification or cancellation of the order.[101] The SROs note that SRO and Commission staff could, if needed, ascertain the specific individual who submitted a modification or cancellation instruction in an account with multiple authorized account holders by requesting this information from the broker-dealer in the same manner they would be able to for the original receipt or origination of an order.[102]

iii. Effective Date vs. Account Opening Date

Rule 613(c)(7)(viii)(B) requires broker-dealers to report to the Central Repository ''Customer Account Information.'' [103] The term ''Customer Account Information'' is defined in Rule 613(j)(4) to ''include, but not be limited to, account number, account type, customer type, date account opened, and large trader identifier (if applicable).'' [104] In the Exemption Request and in the September 2015 Supplement,[105] the SROs request an exemption from the requirement in Rule 613(c)(7)(viii)(B) to report the ''date [the] account [was] opened'' and instead propose that an ''effective date'' [106] be reported in lieu of an account open date in certain limited circumstances, described below.[107]

The first circumstance for which the SROs propose to permit reporting of an effective date in lieu of an account open date is where a relationship identifier—rather than a parent account—has been established for an institutional Customer relationship.[108] The SROs explain that when a trading relationship is established at a broker-dealer for an institutional Customer, the broker-dealer typically creates a parent account, under which additional subaccounts are created.[109] However, according to the SROs, in some cases the broker-dealer establishes the parent relationship for an institutional Customer using a relationship identifier as opposed to an actual parent account.[110] According to the SROs, the relationship identifier could be any of a variety of identifiers, such as the LEI or a short name for the relevant institution.[111] This relationship identifier is established prior to any trading for the institutional Customer.[112] The SROs state that if a relationship identifier has been established rather than a parent account,

[90] *Id.*

[91] The SROs represent that a person month is the amount of effort expended by one person working one month. *See id.* at 18 n.43.

[92] Industry members assumed 21.67 person days per person month (52 weeks * 5 work days per week, divided by 12 months): 30 person months * 21.67 person days/person month * $1,200 daily rate. *See id.* at 18 n.44.

[93] *See id.* at 18.

[94] The Commission notes that although the Exemption Request provided a cost-benefit analysis for compliance with the Customer-ID reporting requirement under Rule 613, it did not provide such an analysis for the proposed approaches described below in subsections II.B.1.ii (Modification and Cancellation) and II.B.1.iii (Effective Date vs. Account Opening Date).

[95] *See* Exemption Request Letter, *supra* note 5, at 18.

[96] *See id.*

[97] 17 CFR 242.613(c)(7)(iv)(F) (emphasis added).

[98] *See* Exemption Request Letter, *supra* note 5, at 12.

[99] *Id.*

[100] *Id.*

[101] *Id.*

[102] *See id.* at 12–13.

[103] 17 CFR 242.613(c)(7)(viii)(B).

[104] 17 CFR 242.613(j)(4).

[105] *See* September 2015 Supplement, *supra* note 8, at 4.

[106] The term ''effective date'' herein has the same meaning set forth in the September 2015 Supplement. *See infra,* notes 118–119 and accompanying text, 129–131 and accompanying text. The September 2015 Supplement states that to the extent there are any inconsistencies between it and the Exemption Request Letter regarding the use of an ''effective date'' in lieu of the ''date account opened,'' the terms of the September 2015 Supplement shall control. September 2015 Supplement, *supra* note 8, at 1.

[107] *See* Exemption Request Letter, *supra* note 5, at 11; September 2015 Supplement, *supra* note 8, at 4. The SROs note that this request for an exemption is limited to the requirements of Rule 613(c)(7)(viii)(B) noted herein, and does not pertain to other requirements of the Act, the rules thereunder, or SRO rules requiring account opening date, account number or account type information. September 2015 Supplement, *supra* note 8, at 4 n.6.

[108] September 2015 Supplement, *supra* note 8, at 4–5.

[109] *Id.* at 5.

[110] *Id.*

[111] *Id.*

[112] *Id.* The SROs state that a relationship identifier is typically established when the relationship is entered into a firm's system(s) (*e.g.,* a trading system, a reference data system, etc.) but note that the practice may vary across the industry, as some firms may create relationship identifiers during the onboarding process. *Id.*

and an order is placed on behalf of the institutional Customer, any executed trades will be kept in a firm account (*e.g.,* a facilitation or average price account) until they are allocated to the proper ''subaccount(s),'' *i.e.,* the accounts associated with the parent relationship identifier connecting them to the institutional Customer.[113]

The SROs explain that, in the above circumstance, no account open date is available for the parent relationship because there is no parent account.[114] For the same reason, no account number or account type is available.[115] Further, the SROs state that historically, broker-dealers have not maintained the date such relationships began in a uniform manner; some broker-dealers have maintained the date the relationship was first established in the broker dealer's system, whereas others may have maintained the date trading began using the relationship identifier.[116]

Thus, the SROs propose in the above circumstance to permit broker-dealer CAT Reporters to report the effective date of the relationship identifier in lieu of an account open date. Where such institutional Customer relationships were established *before* CAT's implementation,[117] the effective date would be either (i) the date the broker-dealer established the relationship identifier, or (ii) the date when trading began—*i.e.,* the date the first order is received—using the relevant relationship identifier.[118] Where such relationships were established *after* CAT's implementation, the effective date would be the date the broker-dealer established the relationship identifier and would be no later than the date the first order was received; the SROs further state that a uniform definition of effective date would be included in the CAT technical specifications to ensure consistent usage by all CAT Reporters going forward.[119] For such relationships established before *or* after CAT's implementation, the SROs additionally request an exemption from Rule 613(c)(7)(viii)(B)'s requirement to report the ''account number'' and ''account type'' [120] and instead propose permitting broker-dealers to report the relationship identifier in place of the account number, and identify the ''type'' as a ''relationship'' in place of the account type.[121] The SROs do not request exemptive relief concerning reporting of the account open date of the subaccount(s) associated with the parent relationship identifier, as account open dates would be available for such subaccounts.[122]

The second circumstance for which the SROs propose to permit reporting of an effective date in lieu of an account open date is where particular legacy system data issues may prevent a broker-dealer from providing an account open date for any type of account (*i.e.,* institutional, proprietary or retail) established before CAT's implementation.[123] According to the SROs, those legacy system data issues may arise because:

(1) A broker-dealer has switched back office providers or clearing firms and the new back office/clearing firm system identifies the account open date as the date the account was opened on the new system; [124]

(2) A broker-dealer is acquired and the account open date becomes the date that an account was opened on the post-merger back office/clearing firm system;

(3) Certain broker-dealers maintain multiple dates associated without accounts in their systems and do not designate in a consistent manner which date constitutes the account open date, as the parameters of each date are determined by the individual broker-dealer; [125] or

(4) No account open date exists for a proprietary account of a broker-dealer.[126]

Thus, for accounts established *before* CAT's implementation, the SROs propose that when legacy systems data issues arise due to one of the four reasons above and no account open date is available, broker-dealers would be permitted to report an effective date in lieu of an account open date.[127] When the legacy systems data issues and lack of account open date are attributable to above reasons (1) or (2), the effective date would be the date the account was established, either directly or via a system transfer, [128] at the relevant broker-dealer.[129] When the legacy systems data issues and lack of account open date are attributable to above reason (3), the effective date would be the earliest available date.[130] When the legacy systems data issues and lack of account open date are attributable to above reason (4), the effective date would be (i) the date established for the proprietary account in the broker-dealer or its system(s), or (ii) the date when proprietary trading began in the account, *i.e.* the date on which the first orders were submitted from the account.[131]

The SROs note that they do not seek exemptive relief concerning legacy systems data issues where a ''date account opened'' is available.[132]

[113] *Id.* The SROs explain that the order would originate from a parent relationship using the relationship identifier, rather than the subaccount that ultimately will receive the allocation. *Id.* According to the SROs, subaccounts may be established before or simultaneously with order origination; even when a subaccount exists before the order is transmitted, there may be multiple subaccounts for a given institutional relationship and the broker-dealer may not know which subaccount will receive the allocation for a trade at the time of order origination. *Id.* Also, the SROs state that a subaccount receiving the allocation may not exist at the time of order origination, and provide an example where two subaccounts may exist prior to order origination, but a third subaccount that may receive an allocation may be added after the order is submitted. *Id.* The SROs note that information about allocations to subaccounts will be submitted with Allocation Reports. *Id.; see infra* notes 213–217 and accompanying text.

[114] September 2015 Supplement, *supra* note 8, at 5.

[115] *Id.* at 6.

[116] *Id.* at 5.

[117] In this subsection, CAT ''implementation'' refers to the implementation date of the CAT NMS Plan applicable to the relevant CAT Reporter, as set forth in Rule 613(a)(3)(v) and (vi). *See id.*

[118] *Id.* at 6.

[119] *Id.*

[120] *See supra* notes 103–104 and accompanying text and 115 and accompanying text.

[121] September 2015 Supplement, *supra* note 8, at 6.

[122] *See id.* at 5. However, if there were an applicable legacy system data issue with the relevant subaccount, as described below, then an exemption may apply.

[123] *Id.* at 6–8. The SROs note that they have identified these legacy system data issues based on discussions with the DAG and understand that the term ''account opening date'' has not been clearly defined as a historical matter. *Id.* at 6–7. The SROs further note that given the lack of guidance on the definition of account opening date, as well as systems issues, a broker-dealer may not have an account opening date, and/or may have used an alternative date to indicate when an account was established. *Id.* at 7.

[124] The SROs state that the manner in which accounts are transferred from one system to another may impact the account opening date field. *Id.* at 7.

[125] The SROs note that such variation among broker-dealers also occurs with respect to the account status change date (*i.e.,* the effective date of when accounts are established for trading). *Id.* at 7.

[126] The SROs state that, historically, the account opening date was not required for a broker-dealer's proprietary accounts, if it was not available. *Id.* The SROs further note that according to regulatory guidance regarding Blue Sheet submissions, the ''date account opened'' should be provided for proprietary accounts ''if it is known''; otherwise the field should be left blank. *Id.*

[127] *Id.* at 8.

[128] The SROs note that such system transfer could occur, for example, using ''ACATS.'' *Id.* ''ACATS'' is the Automated Customer Account Transfer Service, a system that automates and standardizes procedures for the transfer of assets in a customer account from one brokerage firm and/or bank to another. *See http://www.dtcc.com/clearing-services/clearing-services/acats.aspx.*

[129] September 2015 Supplement, *supra* note 8, at 8.

[130] *Id.*

[131] *Id.* The SROs note that in all cases, the effective date would be a date no later than the date proprietary trading occurs at the broker-dealer or in its system. *Id.*

[132] *Id.* The SROs provide an example where an account is transferred to a new broker-dealer and

Moreover, because these are *legacy* system data issues, the SROs do not seek exemptive relief with respect to such issues for accounts established *after* CAT's implementation, as the SROs understand that after CAT's implementation, CAT Reporters will report the account open date as required under Rule 613(c)(7)(viii)(B) in such circumstances.[133]

2. *Discussion of the SROs' Proposed Approach to Customer ID*

The Commission has carefully considered the information provided by the SROs in support of their request for exemptions from Rule 613(c)(7)(i)(A);[134] 613(c)(7)(iv)(F);[135] 613(c)(7)(viii)(B);[136] and 613(c)(8) applicable to the reporting of Customer-IDs.[137] The Commission believes that it is appropriate to provide sufficient flexibility so as to not preclude the approach described by the SROs in the Exemption Request.

Based on the information provided by the SROs in the Exemption Request, the Commission is persuaded to grant exemptive relief to provide flexibility such that the proposed approach described in the Exemption Request can be included in the CAT NMS Plan and subject to notice and comment. Specifically, the SROs describe a Customer Information Approach that could result in the linking, within the Central Repository, of FDIs to the appropriate Customer-ID and, ultimately, to the Customer. To the extent such data is linked in an efficient, accurate, reliable, and secure manner, the ability of the Commission and the SROs to access and use CAT Data should not be adversely affected. Additionally, the potentially lower cost of allowing broker-dealers to leverage their existing methods of identifying Customers represents a possible benefit. With respect to the reporting of the Customer providing the modification or cancellation instruction, and not the individual person doing so, the Commission recognizes that requiring the reporting of the individual person providing the modification or cancellation instruction would result in an inconsistent level of granularity between the Reportable Events of origination or receipt of an order, and the modification or cancellation of the order. With respect to reporting the account effective date in lieu of the account open date in the two particular circumstances described above (and lack of an ''account number'' and ''account type'' in the first of those circumstances[138]), the Commission believes that the SROs' proposed approach may not meaningfully impact the quality or usefulness of the information available to regulators.

Therefore, the Commission finds that it is appropriate in the public interest and consistent with the protection of investors to exempt the SROs from Rule 613(c)(7)(i)(A), (c)(7)(iv)(F), (c)(7)(viii)(B), and (c)(8). The Commission notes that the proposed Customer Information Approach described in the Exemption Request would require that: (1) For the original receipt or origination of an order, broker-dealers report an FDI for the Customer, rather than a Customer-ID, and that each FDI is unique across the firm for each business date; (2) broker-dealers submit an initial set of information to the Central Repository identifying the Customer, including the account type, account effective date, Customer's name, address, date of birth, tax identification number or social security number, an individual's role in the account (*e.g.,* primary holder, joint holder, guardian, trustee, person with the power of attorney), LEI (if applicable), and Large Trader ID (if applicable); (3) there be a secure method and process for ensuring that broker-dealers provide daily or periodic updates—as described above—to the information used to identify a Customer to assure that the information is complete and accurate; and (4) the Plan Processor is able to efficiently, accurately and reliably assign and track a unique Customer-ID to each Customer, based on the FDI and other information identifying the Customer reported by a broker-dealer, and link reported FDIs to the appropriate Customer-IDs.

The Commission additionally notes that, with respect to reporting on modification or cancellation instructions, the proposed approach described in the Exemption Request would require that: (1) CAT Reporters report whether a modification or cancellation instruction was given by the Customer associated with the order, or was initiated by the broker-dealer or exchange associated with the order; and (2) SRO and Commission regulatory staff have the ability to identify the Customer, broker-dealer or exchange that modified or cancelled the order.

The Commission further notes that the proposed approach allowing CAT Reporters to report an effective date[139] in lieu of an account open date as described in the Exemption Request and in the September 2015 Supplement would be limited to the following two circumstances where no account open date is available: *First,* where a relationship identifier has been established for an institutional Customer relationship rather than a parent account,[140] and *second,* where legacy system data issues prevent a broker-dealer from providing an account open date, for any type of account established before[141] CAT's implementation, for one of the four specific reasons[142] detailed above. The Commission also notes that the proposed approach would require that the effective dates reported in these two circumstances would be those specifically described above and in the September 2015 Supplement.[143]

C. CAT Reporter ID

1. The SROs' Proposed Approach to CAT Reporter ID

A CAT-Reporter-ID is ''a code that uniquely and consistently identifies [a CAT Reporter] for purposes of providing data to the central repository.''[144] Subparagraphs (c)(7)(i)(C), (ii)(D), (ii)(E), (iii)(D), (iii)(E), (iv)(F), (v)(F), (vi)(B), and (c)(8) of Rule 613 provide that the CAT NMS Plan must require CAT Reporters to report CAT-Reporter-IDs to the Central Repository for orders and certain Reportable Events.[145] Specifically, these provisions provide that the CAT NMS Plan must require reporting of CAT-Reporter-IDs of: The broker-dealer receiving or originating an

is deemed to be a new account. The SROs state that in such a case, the account opening date and the date the account was established at the relevant broker-dealer are the same, and no exemptive relief would be necessary. *Id.*

[133] *Id.* at 8–9.

[134] 17 CFR 242.613(c)(7)(A).

[135] 17 CFR 242.613(c)(7)(iv)(F).

[136] 17 CFR 242.613(c)(7)(viii)(B).

[137] 17 CFR 242.613(c)(8).

[138] *See supra* notes 115 and accompanying text, 120–121 and accompanying text.

[139] *See supra* notes 106, 118–119 and accompanying text, 129–131 and accompanying text.

[140] The Commission notes that the proposed approach would also require reporting of the relationship identifier in place of the account number, and identification of the ''type'' as a ''relationship'' in place of the account type. *See supra* notes 113 and accompanying text, 120–121 and accompanying text. The Commission additionally notes that no exemptive relief is requested or granted concerning reporting of the account open date of the ''subaccount(s)'' associated with the parent relationship identifier. *See supra* note 120 and accompanying text.

[141] The Commission notes that no exemptive relief is requested or granted concerning legacy systems data issues for accounts established *after* CAT's implementation. *See supra* note 133 and accompanying text.

[142] *See supra* notes 124–126 and accompanying text.

[143] *See supra* notes 118–119 and accompanying text, 129–131 and accompanying text.

[144] 17 CFR 242.613(j)(2).

[145] 17 CFR 242.613(c)(7)(i)(C), (ii)(D), (ii)(E), (iii)(D), (iii)(E), (iv)(F), (v)(F), (vi)(B), and (c)(8).

order;[146] the broker-dealer or national securities exchange from which (or to which) an order is being routed;[147] the broker-dealer or national securities exchange receiving (or routing) a routed order;[148] the broker-dealer, if applicable, giving a modification or cancellation instruction, if an order is modified or cancelled;[149] the national securities exchange or broker-dealer executing an order, if an order is executed;[150] and the clearing broker or prime broker, if applicable, if an order is executed.[151] Additionally, Rule 613(c)(8) requires that CAT Reporters use the same CAT-Reporter-ID for each broker-dealer.[152] In the Exemption Request, the SROs request an exemption from the requirements in the above-noted provisions that broker-dealer CAT-Reporter-IDs be reported to the Central Repository on orders and Reportable Events and instead propose using the ''Existing Identifier Approach.''[153]

The SROs state that they do not believe the Existing Identifier Approach, described below, would negatively impact regulators' access, use, and analysis of CAT Data, and that it could even allow ''additional levels of granularity compared to the CAT-Reporter-ID approach . . . without imposing additional requirements and associated costs on both CAT Reporters and the CAT Plan Processor.''[154] The SROs believe that the Existing Identifier Approach could collect information of more use to regulators than the approach mandated by Rule 613 through the reporting of MPIDs that identify not just a broker-dealer, but departments, businesses, or trading desks within a broker-dealer.[155] Additionally, the SROs note that many SRO surveillances ''run off of these existing identifiers . . . and inclusion of these identifiers will help facilitate the retirement of the OATS system because regulators would have access to such identifiers through the CAT.''[156] The SROs also assert that the Existing Identifier Approach would ''increase linkage capabilities,'' explaining that ''firms have a greater ability to uniquely identify firms within a single Existing Identifier than across an entire large firm with multiple desks and departments.''[157]

Under the Existing Identifier Approach, instead of reporting a universal CAT-Reporter-ID for each broker dealer to be used across all SROs for orders and Reportable Events, as described above, a broker-dealer would be permitted to report its existing SRO-assigned market participant identifier (''MPID'') used by the relevant SRO specifically for transactions occurring at that SRO (*e.g.,* FINRA MPID, Nasdaq MPID, NYSE Mnemonic, CBOE User Acronym, and CHX Acronym) when reporting information to the Central Repository.[158] Similarly, an exchange would report the MPIDs used by the broker-dealers on that exchange or its systems, in lieu of reporting universal CAT-Reporter-IDs for broker-dealers. Over-the-counter (''OTC'') orders and Reportable Events would be reported with broker-dealers' FINRA MPIDs.[159]

According to the SROs, the Existing Identifier Approach would allow regulators to identify the broker-dealer associated with order information or a Reportable Event by linking those orders and Reportable Events to MPIDs, which in turn would be linked to a corresponding CAT-Reporter-ID generated by the Central Repository for internal use, and ultimately linked to the responsible broker-dealer.[160] This would ensure that each Reportable Event would be linked to the broker-dealer associated with the event, as required by Rule 613.[161] To accomplish this linkage, the Plan Processor would create and maintain a database in the Central Repository that would map the MPIDs to the appropriate CAT-Reporter-ID and broker-dealer.[162] A broker-dealer would be required to provide information to identify itself (*e.g.,* its CRD number or LEI) to the Central Repository[163] and each SRO would be required to submit all of the MPIDs used by its members on the SRO to the Central Repository on a daily basis.[164] The Central Repository would match these reported MPIDs with the associated broker-dealer CAT-Reporter-IDs using the CAT-Reporter-ID database.[165] When reporting its own CAT-Reporter-ID to the Central Repository, an SRO would use the one assigned to it by the Plan Processor.[166]

The Exemption Request describes the process by which the SROs solicited the views of their members and other appropriate parties regarding the Existing Identifier Approach.[167] The SROs requested the Bidders' and the DAG's input on the use of CAT-Reporter-IDs and note that the Bidders proposed system functionality was consistent with the Existing Identifier Approach and the Bidders did not indicate that it would be more costly or burdensome than Rule 613's CAT-Reporter-ID approach.[168] The SROs also indicate that the DAG members recommended using existing MPIDs for CAT-Reporter-IDs, rather than new identifiers.[169] The SROs state that they and the DAG believe the proposed approach would reduce their costs of complying with Rule 613, specifically by ''minimizing the effect on current real-time business processes, practices, and data flows'' and that the proposed approach ''may facilitate the ability of the CAT Reporters to report information to the Central Repository by reducing the number of systems changes necessary to report to the Central Repository by adopting a new identifier.''[170]

The SROs believe the reliability and accuracy of CAT Data under the proposed Existing Identifier Approach would not change from the approach mandated by Rule 613 and would not negatively impact ''the accuracy with which the CAT Plan Processor would be able to link transactions.''[171] The SROs represent that the Bidders believe the Existing Identifier Approach could result in fewer errors and would result in reliable and accurate linkage of order information, allowing regulators to

[146] 17 CFR 242.613(c)(7)(i)(C).

[147] 17 CFR 242.613(c)(7)(ii)(D) and (E). If the order is routed to a national securities association, then the CAT-Reporter-ID of that national securities association must be reported. 17 CFR 242.613(c)(7)(ii)(E).

[148] 17 CFR 242.613(c)(7)(iii)(D) and (E). If a national securities association receives the routed order, then the CAT-Reporter-ID of that national securities association must be reported. 17 CFR 242.613(c)(7)(iii)(D).

[149] 17 CFR 242.613(c)(7)(iv)(F).

[150] 17 CFR 242.613(c)(7)(v)(F).

[151] 17 CFR 242.613(c)(7)(vi)(B).

[152] 17 CFR 242.613(c)(8).

[153] *See* Exemption Request Letter, *supra* note 5, at 19.

[154] *Id.* at 23.

[155] *See id.* at 23, 26.

[156] *Id.* at 23.

[157] *Id.* at 25.

[158] *Id.* at 19–20.

[159] The SROs explain that this is how broker-dealers currently report order information to FINRA's ''Order Audit Trail System'' and report OTC trades to a FINRA trade reporting facility. *Id.* at 20.

[160] *Id.* at 20–21. The SROs explain that the CAT-Reporter-ID generated by the Central Repository for each CAT Reporter would be linked to SRO-assigned identifiers reported on orders and Reportable Events. Regulators could access information on the CAT Reporter based on either the CAT-Reporter-ID or by another identifier—for example, a market participant identifier used by an ATS that is operated by the CAT Reporter. *Id.* at 20.

[161] *Id.* at 19–20.

[162] *Id.* at 20.

[163] *Id.* at 19.

[164] *Id.* at 20.

[165] *Id.*

[166] *Id.* at 20 n.53.

[167] *Id.* at 22.

[168] *Id.*

[169] *Id.* According to the SROs, SIFMA recommends use of the LEI as the CAT-Reporter-ID. *See id.* at 22. SIFMA also recommends that the Existing Identifier Approach only be used when a CAT Reporter does not have an LEI. *Id.*

[170] *Id.* at 24.

[171] *Id.* at 22, 23.

submit queries and run surveillance analyses using the CAT-Reporter-ID.[172] The SROs note that the Bidders did not indicate that use of the Existing Identifier Approach would compromise the reliability and accuracy of CAT Data during: (1) Its transmission and receipt from market participants; (2) data extraction, transformation and loading at the Central Repository; (3) data maintenance and management at the Central Repository; or (4) use by regulators.[173]

The SROs also believe that the proposed approach would not adversely impact the security and confidentiality of the information reported to the Central Repository.[174] They state that none of the Bidders have indicated that the Existing Identifier Approach would create new or different security or confidentiality concerns when compared with the CAT-Reporter-ID approach mandated by Rule 613.[175]

The SROs also believe that the Existing Identifier Approach would have a positive impact on competition, efficiency and capital formation by reducing costs, technology, and other burdens on CAT Reporters while still meeting the Commission's goals for the CAT.[176]

The SROs set forth various reasons the Existing Identifier Approach would be an efficient and cost-effective way to identify each CAT Reporter responsible for an order or Reportable Event.[177] The SROs believe it would reduce the cost and implementation burdens on the SROs and broker-dealers to comply with Rule 613,[178] as it would allow them to continue using their current business practices and data flows instead of building new infrastructure to support the CAT-Reporter-ID requirement.[179] The SROs believe Rule 613's approach, by comparison, would require many changes to the operation of broker-dealers and would impose ''several potential technical implementation difficulties for the CAT Reporters and the CAT Plan Processor'' by necessitating the adoption of infrastructure to comply with the recording, reporting, gathering, and maintenance of CAT-Reporter-IDs.[180] The SROs note that broker-dealers with multiple MPIDs would be required under Rule 613's approach to consolidate them into one CAT-Reporter-ID, necessitating ''substantial system and process updates'' by the broker-dealers and SROs.[181] Additionally, the SROs explain that some broker-dealers generate order identifiers that are tied to the specific MPIDs used by their trading desks. For these firms, to consolidate all of a broker-dealer's MPIDs into one CAT-Reporter-ID would complicate the generation of order identifiers and require significant changes to these broker-dealers' systems.[182] The SROs believe that the Existing Identifier Approach would ''minimize the effect on current real-time business processes, practices and data flows,'' and ''reduc[e] the systems changes necessary for broker-dealers to begin reporting information to the Central Repository'' by requiring an existing identifier be reported, rather than a new identifier (*i.e.,* the CAT-Reporter-ID).[183]

In support of their request, the SROs provide cost information in the Exemption Request for implementing the CAT-Reporter-ID requirement mandated by Rule 613.[184] The SROs note that industry members estimated that the cost for the Top 3 Tiers of CAT Reporters to implement the CAT-Reporter-ID as required by Rule 613 would be $78 million, or $312,048 per firm.[185] The SROs state that the industry members established this cost estimate by considering the costs of the activities required to implement the CAT-Reporter-ID requirement, which include: (1) The analysis of the impact of implementation on broker-dealer processes if broker-dealers maintained the current identification mechanisms; (2) the required changes to FIX messaging and matching engines; (3) the required changes to trading center order entry specifications; (4) the cost of capturing and storing the additional CAT-Reporter-IDs; and (5) the increase in CAT error processing costs as a result of the change.[186] The SROs state that these activities would require, on average, an estimated 4 person months of business analysis, and a total implementation time of 12 person months, at a staff cost of $1,200 per day, accounting for a per firm cost of $312,048.[187] The SROs represent that this cost estimate only includes the costs for 11% of the broker-dealers that will be reporting to CAT.[188]

The SROs also state that industry members estimated that the cost for the Top 3 Tiers of CAT Reporters to implement the CAT-Reporter-ID requirement, ''if it is required to be supplied on every route and destination interface used by the broker-dealers,'' is $244 million, or $975,150 per firm.[189] The industry members considered the costs of the following activities to implement the CAT-Reporter-ID: (1) The analysis of the impact of implementation on the routing and trading infrastructure for each execution; (2) the required changes to FIX messaging and matching engines; (3) the required changes to trading center order entry specifications; (4) the cost of capturing and storing the additional CAT-Reporter-IDs; and (5) the increase in Central Repository error processing costs as a result of this change.[190] The SROs state that these activities would require an estimated 12.5 person months of business analysis and a total implementation time of 37.5 person months, at a staff cost of $1,200 per day, resulting in a per-firm cost of $975,150.[191] The SROs represent that this cost estimate only includes the costs for 11% of the broker-dealers that will be reporting to CAT.[192] Based on these estimates, the SROs believe the overall cost for the Existing Identifier Approach would be less than Rule 613's approach, but do not provide estimated costs of implementing the Existing Identifier Approach for comparison.[193] The SROs also believe that, based on the extent of the changes needed to comply with the approach required by Rule 613, and the number of broker-dealers that would need to make these changes, there would be a significant cost savings associated with using the Existing Identifier Approach.[194]

2. Discussion of the SROs' Proposed Approach to CAT Reporter ID

The Commission has carefully considered the information provided by the SROs in support of their request for exemptions from Rule 613(c)(7)(i)(C), (c)(7)(ii)(D), (c)(7)(ii)(E), (c)(7)(iii)(D), (c)(7)(iii)(E), (c)(7)(iv)(F), (c)(7)(v)(F),

[172] *Id.*
[173] *Id.* at 23.
[174] *Id.*
[175] *Id.*
[176] *Id.* at 24.
[177] *Id.*
[178] *Id.* at 21, 24.
[179] *Id.* at 24.
[180] *Id.* at 26.
[181] *Id.* at 24.
[182] *Id.*
[183] *Id.* at 19.
[184] *See id.* at 24–25.
[185] *Id.* at 25.
[186] *Id.* at 24–25.
[187] *Id.* at 25.
[188] *Id.*
[189] *Id.*
[190] *Id.*
[191] *Id.*
[192] *Id.*
[193] *See id.*
[194] *Id.* at 24, 25. The SROs note that, in addition to the Existing Identifier Approach, they also considered SIFMA's alternative LEI approach to complying with Rule 613, but that not all industry participants use LEIs, so these firms would need to obtain an LEI if SIFMA's approach were adopted. *Id.* at 25. After weighing the merits of that approach, the SROs concluded that the Existing Identifier Approach was the best among the available options. *Id.* at 26.

(c)(7)(vi)(B), and (c)(8) [195] applicable to the reporting of broker-dealer CAT-Reporter-IDs. The Commission believes it is appropriate to provide sufficient flexibility so as not to preclude the approach described by the SROs in the Exemption Request.

Based on the information provided by the SROs in the Exemption Request, the Commission is persuaded to grant exemptive relief to provide flexibility such that the Existing Identifier Approach described in the Exemption Request can be included in the CAT NMS Plan and subject to notice and comment. The SROs describe an approach that could result in the linking, within the Central Repository, of all broker-dealer MPIDs to the appropriate CAT-Reporter-ID and, ultimately, to the broker-dealer. To the extent such data is linked in an efficient, accurate and reliable manner, the ability of the Commission and the SROs to access and use CAT Data should not be adversely affected. Moreover, the additional granularity that could result from reporting MPIDs potentially identifying not just broker-dealers, but also their internal departments, businesses, or trading desks, represents a possible regulatory benefit. Additionally, the potentially lower cost resulting from CAT Reporters using their existing business processes and data flows to report broker-dealer MPIDs rather than reporting new broker-dealer CAT-Reporter-IDs using new systems and infrastructure represents a possible benefit.

Therefore, the Commission finds that it is appropriate in the public interest and consistent with the protection of investors to exempt the SROs from Rule 613(c)(7)(i)(C), (c)(7)(ii)(D), (c)(7)(ii)(E), (c)(7)(iii)(D), (c)(7)(iii)(E), (c)(7)(iv)(F), (c)(7)(v)(F), (c)(7)(vi)(B), and (c)(8),[196] as those provisions apply to the reporting of broker-dealer CAT-Reporter-IDs. The Commission notes that the proposed approach described in the Exemption Request would require that: (1) Broker-dealers report their existing SRO-assigned MPID(s) in lieu of reporting CAT-Reporter IDs as specified in Rule 613; (2) broker-dealers separately report information to identify themselves to the Central Repository; (3) each SRO submits the MPIDs used by its members to the Central Repository on a daily basis; (4) the Central Repository uses the information provided by the SROs to generate a CAT-Reporter-ID for each broker-dealer; (5) the Central Repository links all broker-dealer MPIDs to the appropriate CAT-Reporter-ID; and (6) the Plan Processor creates and maintains a database tracking all MPIDs to the appropriate CAT-Reporter-ID and, ultimately, to the broker-dealer.

D. Linking Order Executions to Allocations

1. The SROs' Proposed Approach to Linking Order Executions to Allocations

Rule 613(c)(7)(vi)(A) provides that the CAT NMS Plan must require each CAT Reporter to record and report to the Central Repository ''the account number for any subaccounts to which the execution is allocated (in whole or part).'' [197] This information would allow regulators to link the subaccount to which an allocation was made to the original order placed, and its execution. In the Exemption Request and an accompanying supplement,[198] the SROs request an exemption from Rule 613(c)(7)(vi)(A) and propose an approach where CAT Reporters would instead submit information to the Central Repository that would allow regulators to link subaccount information to the Customer that submitted the original order.[199]

The SROs do not believe that their proposed approach, described below, would affect the various ways in which, and purposes for which, regulators would use, access, and analyze CAT Data.[200] The SROs represent that their proposed approach would still provide regulators with the ability to associate allocations with the Customers that received allocations and would provide regulators with the information that they require without imposing undue burden on the industry.[201] The SROs also do not believe that this approach would compromise the linking of order events, alter the time and method by which regulators may access the data, or limit the use of the data as described in the use cases contained in the Adopting Release for Rule 613.[202] Moreover, the SROs state that they, along with the industry, believe that linking allocations to specific executions, as mandated by Rule 613, would be artificial and any perceived benefits would not be of value to regulators.[203]

The SROs believe that reporting the account number for any subaccounts to which an execution is allocated raises significant practical problems, and would be burdensome, for CAT Reporters.[204] The SROs explain that generally broker-dealers' front-office systems handle order and execution processes and middle- or back-office systems handle allocation processes and that these systems operate independently of each other.[205] The SROs believe that creating linkages between the execution and allocation processes by means of an order identifier would require extensive re-engineering of broker-dealer front-, middle-, and back-office systems, and that such re-engineering would be very costly and time consuming.[206] The SROs believe that their proposed approach would significantly reduce the burden on CAT Reporters to comply with the Rule 613 reporting requirements.[207]

The SROs take the position that, although the ultimate allocation of shares executed that result from an aggregated order may be useful for regulatory purposes, tying allocations to each individual execution is of little regulatory benefit.[208] The SROs explain that the subaccount account information required to be reported to the Central Repository pursuant to Rule 613(c)(7)(vi)(A) would show an artificial relationship between any one execution and one allocation.[209] According to the SROs, when a large order is submitted by a broker-dealer, that order is likely to be filled, or partially filled, though several smaller executions with different contra-side parties.[210] Those executions are then aggregated and an average price is determined for the fill of the original order placed.[211] Subaccount allocations are then made using the aggregated execution on an average price basis, so it is not always

[195] 17 CFR 242.613(c)(7)(i)(C), (c)(7)(ii)(D), (c)(7)(ii)(E), (c)(7)(iii)(D), (c)(7)(iii)(E), (c)(7)(iv)(F), (c)(7)(v)(F), (c)(7)(vi)(B), and (c)(8). The SROs requested exemptions from these provisions with respect to the obligation to report broker-dealer (and clearing and prime broker, as applicable) CAT-Reporter-IDs.

[196] 17 CFR 242.613(c)(7)(i)(C), (c)(7)(ii)(D), (c)(7)(ii)(E), (c)(7)(iii)(D), (c)(7)(iii)(E), (c)(7)(iv)(F), (c)(7)(v)(F), (c)(7)(vi)(B), and (c)(8).

[197] *See* 17 CFR 242.613(c)(7)(vi)(A).

[198] *See* April 2015 Supplement, *supra* note 7.

[199] *See* Exemption Request Letter, *supra* note 5, at 28–29.

[200] *See* 17 CFR 242.613(a)(1)(ii) (consideration requiring discussion of the time and method by which the data in the Central Repository will be made available to regulators); *see also* Exemption Request Letter, *supra* note 5, at 30.

[201] *See* Exemption Request Letter, *supra* note 5, at 30.

[202] *Id.; see also* Securities Exchange Act Release No. 67457 (July 6, 2012), FR 77 45722, 45798–99 (August 1, 2012).

[203] *See* Exemption Request Letter, *supra* note 5, at 30.

[204] *See id.* at 27.

[205] *Id.* The middle- and back-office systems generally only provided final execution information on an aggregate, average price basis from the front-office systems. *Id.*

[206] *Id.*

[207] *See id.* at 29.

[208] *See id.* at 28.

[209] *Id.*

[210] *Id.*

[211] *Id.*

possible to associate one allocation with one execution.[212]

To ensure that regulators would receive meaningful information regarding subaccount allocations, the SROs propose to require CAT Reporters to send an Allocation Report following each execution to the Central Repository as part of the information required pursuant to 613(c)(7)(vi).[213] The Allocation Report, which would be processed and validated in the same manner as any other order lifecycle report, would include, at a minimum, the following information: (1) the number of shares allocated; (2) the FDI[214] of any accounts or subaccounts (as applicable) to which the shares are allocated; (3) the time of allocation; (4) the identifier of the firm reporting the allocation, (5) the security; (6) the price per share; and (7) the side of the order (buy/sell).[215] There would not be a direct link in the Central Repository between the subaccounts to which an execution is allocated and the execution itself. However, CAT Reporters would be required to report each allocation to the Central Repository on an Allocation Report, and the FDI of the relevant subaccount provided to the Central Repository as part of the Allocation Report could be used by the Central Repository to link the subaccount holder to those with authority to trade on behalf of the account.[216] Further, the Allocation Reports used in conjunction with order lifecycle information in the CAT would assist regulators in identifying, through additional investigation, the probable group of orders that led to allocations.[217]

In support of their exemption request, the SROs include a cost-benefit analysis in the Exemption Request. The SROs believe that the reporting requirements of Rule 613(c)(7)(vi)(A) would impose significant costs on the industry,[218] and that linkages between executions and allocations could show artificial relationships.[219] The SROs believe, however, that the approach proposed in the Exemption Request is an efficient and cost-effective way to report allocations.[220] In particular, the SROs believe that this approach would impose less of a cost burden on broker-dealers than the approach required by Rule 613.[221] The SROs explain that in communications with the industry, the DAG emphasized that this approach would reduce their costs for complying with Rule 613 by allowing broker-dealers to leverage existing business practices, processes, and data flows, thereby minimizing the effect on current business processes, practices, and data flows.[222] The SROs argue that given the number of affected broker-dealers and the extent of the technology and business process changes needed for the approach outlined in Rule 613, the cost savings of this approach are significant.[223]

The SROs note that industry members informed them that the cost for the Top 3 Tiers of CAT Reporters to link allocations to executions, as required by Rule 613(c)(7)(vi)(A) would be $525 million.[224] To establish this cost estimate, the SROs explain that industry members considered the costs associated with various activities required to link allocations to executions including: (1) The analysis of the impact of implementation on the broker-dealers processes and systems; (2) the potential changes to buy-side allocation messages to include related executions; (3) the workflow changes to accommodate order bunching at order entry and post-trade bunched order processing; and (4) the integration of the front- and back-office systems that are used to disseminate execution information with the allocation systems.[225] Industry members indicated that these activities would cost 3.5 times the median cost of $600,000 that was paid by the top 250 CAT Reporters when implementing the first phase of the Large Trader Reporting requirements.[226] Industry members used the multiplier to account for the significant changes that would be made to the front- and back-office systems as part of this implementation as well as to address the fact that the first phase of Large Trader Reporting focused on just proprietary trading and direct access, and many issues were not addressed during this implementation, including average price processing issues.[227] Based on these estimates, the SROs believe that the overall cost for the proposed approach would be less than the approach outlined in Rule 613 but do not provide estimated costs of implementing the proposed approach for comparison.[228]

The SROs discuss the proposed approach's impact on reliability and accuracy of data reported to the Central Repository.[229] The SROs explain that complying with the requirements of Rule 613(c)(7)(vi)(A) would require additional system and process changes which could potentially impact the reliability and accuracy of CAT Data.[230] The SROs argue that because the proposed approach leverages existing business processes instead of creating new workflows, it could help improve the reliability and accuracy of CAT Data as well as reduce the time CAT Reporters need to comply with the CAT reporting requirements.[231] Further, the SROs state that CAT Data throughout an order's lifecycle would be more reliable and accurate under the proposed approach than under the approach outlined in Rule 613.[232]

The SROs represent that Bidders did not indicate that the reliability and accuracy of CAT Data under the proposed approach would be compromised during: (1) Its transmission and receipt from market participants; (2) data extraction, transformation, and loading at the Central Repository; (3) data maintenance and management at the Central Repository; or (4) use by regulators.[233]

The SROs also state that the proposed approach would have a positive effect on competition, efficiency, and capital formation.[234] In this regard, the SROs believe that the proposed approach would minimize the cost, technology, and other burdens on the broker-dealers and the SROs.[235] The SROs argue that

[212] *Id.*

[213] *See id.* at 26.

[214] *See* Section II.B.1, *supra* (defining ''FDI'' as firm-designated identifier). The FDI would be associated with all Customer-identifying information, including account number. *See* Exemption Request Letter, *supra* note 5, at 28.

The Exemption Request uses the term ''firm-designated identifier'' when referring to the FDI assigned to a Customer account at a broker-dealer and uses the term ''Firm Designated ID'' when referring to the FDI of a subaccount. *See* Exemption Request Letter, *supra* note 5, at 9–10, 26–27. To avoid confusion, this Order uses ''FDI'' interchangeably and specifies with separate language the type of account being referenced.

[215] *See id.* at 26–27; April 2015 Supplement, *supra* note 7, at 2.

[216] Exemption Request Letter, *supra* note 5, at 28–29.

[217] *See* April 2015 Supplement, *supra* note 7, at 2.

[218] *See* Exemption Request Letter, *supra* note 5, at 31.

[219] *See id.* at 30.

[220] *Id.* at 31.

[221] *Id.*

[222] *Id.*

[223] *Id.*

[224] *Id.*

[225] *Id.*

[226] *Id.*

[227] *Id.*

[228] *Id.*

[229] *See* 17 CFR 242.613(a)(1)(iii) (consideration requiring discussion of the reliability and accuracy of the proposed approach).

[230] *See* Exemption Request Letter, *supra* note 5, at 30.

[231] *Id.*

[232] *Id.*

[233] *Id.*

[234] *See* 17 CFR 242.613(a)(1)(viii) (consideration requiring discussion of competition, efficiency, and capital formation).

[235] *See* Exemption Request Letter, *supra* note 5, at 30–31.

not using the proposed approach could potentially increase barriers to entry due to high infrastructure set-up costs, which would be required to establish linkages between the front-, middle-, and back-offices necessary to comply with the requirements of Rule 613.[236]

The SROs also describe the alternatives they considered in proposing this approach.[237] Specifically, they state that in the course of considering the requirements of Rule 613 as they relate to the linking of allocations to executions, the SROs evaluated two primary approaches: (1) Compliance with Rule 613 as written; and (2) use of the proposed approach.[238] After analyzing the merits of these approaches, the SROs concluded that the proposed approach was the best among the options considered, for the reasons discussed above.[239]

2. Discussion of the SROs' Proposed Approach to Linking Order Executions to Allocations

The Commission has carefully considered the information provided by the SROs in support of their request for an exemption from Rule 613(c)(7)(vi)(A), which requires that the CAT NMS Plan require each CAT Reporter to record and report the account number for any subaccounts to which an execution is allocated.[240] The Commission believes that it is appropriate to provide sufficient flexibility so as not to preclude the approach described by the SROs in the Exemption Request and April 2015 Supplement.

Based on the information provided by the SROs in the Exemption Request and April 2015 Supplement, the Commission is persuaded to grant exemptive relief to provide flexibility such that the alternative approach for providing subaccount allocation information described in the Exemption Request and April 2015 Supplement can be included in the CAT NMS Plan and subject to notice and comment. The SROs describe an approach whereby CAT Reporters would not be required to report account numbers of subaccounts to which executions are allocated but instead would have to submit Allocation Reports containing, among other information, the FDIs of any accounts or subaccounts to which shares are allocated. To the extent the Central Repository is able to efficiently, accurately, and reliably link the subaccount holder to those with authority to trade on behalf of the account, the ability of the Commission and the SROs to access and use such data should not be significantly affected in many instances.[241] Also, by leveraging existing broker-dealer processes, the proposed approach could potentially reduce the time CAT Reporters need to comply with CAT reporting requirements. Further, the potentially lower cost resulting from allowing broker-dealer CAT Reporters to use their existing business processes represents a possible benefit.

Therefore, the Commission finds it is appropriate in the public interest and consistent with the protection of investors to exempt the SROs from Rule 613(c)(7)(vi)(A). The Commission notes that the proposed approach described in the Exemption Request and April 2015 Supplement would require that: (1) CAT Reporters submit an Allocation Report to the Central Repository—which shall be processed and validated in the same manner as any other order lifecycle report—as part of the information required pursuant to 613(c)(7)(vi); (2) the Allocation Report contain, at a minimum, the number of shares allocated, the FDI of the account or subaccount (as applicable) to which the shares are allocated, the time of allocation, the identifier of the firm reporting the allocation, as well as the security, price per share, and the side of the order (buy/sell); and (3) the Central Repository be able to link the subaccount holder to those with authority to trade on behalf of the account.

E. Time Stamp Granularity

1. The SROs' Proposed Approach to Time Stamp Granularity

Rule 613(c)(7) requires CAT Reporters to record and report the time of each Reportable Event.[242] In the Exemption Request, the SROs seek an exemption from the requirement in Rule 613(d)(3) that for ''Manual Order Events'' each CAT Reporter record and report details for Reportable Events with time stamps that ''reflect current industry standards and be at least to the millisecond'' [243] and instead propose requiring: (1) Each CAT Reporter to record and report Manual Order Event time stamps to the second; [244] (2) the CAT NMS Plan to require that Manual Order Events be identified as such when reported to the CAT; [245] and (3) CAT Reporters to report in millisecond time stamp increments when a Manual Order Event is captured electronically in the relevant order handling and execution system of the CAT Reporter (''Electronic Capture'').[246] As proposed by the SROs, ''Manual Order Events'' would be defined to mean ''the non-electronic communication of order-related information for which CAT Reporters must record and report the time of the event under Rule 613.'' [247]

The SROs do not believe that their proposed approach would have an adverse effect on the various ways in which, and purposes for which, regulators would use, access, and analyze CAT Data,[248] and in particular, do not believe that their approach will compromise the linking of Reportable Events, alter the time and method by which regulators may access the data, or limit the use of CAT Data.[249]

The SROs take the position that, while time stamp granularity to the millisecond reflects current industry standards with respect to electronically-processed events,[250] based on industry feedback received through the DAG, established industry practice with respect to Manual Order Events is to capture manual time stamps with granularity at the level of one second.[251] The SROs believe that time stamps finer than a second cannot be captured with precision for manual processes which, by their nature, take one second or

[236] *See id.* at 30–31.

[237] *See* 17 CFR 242.613(a)(1)(xii) (consideration requiring discussion of alternatives considered).

[238] *See* Exemption Request Letter, *supra* note 5, at 31.

[239] *Id.*

[240] 17 CFR 242.613(c)(7)(vi)(A).

[241] However, the Commission notes that in other instances where regulators need to further link the subaccount holder to the execution that resulted in the allocation, additional effort would be required to accurately and reliably obtain such information.

[242] Rule 613(c)(7)(i)(E) requires that CAT Reporters report the ''[t]ime of order receipt or origination'' when reporting order receipt or origination information to the Central Repository. When reporting the routing of an order, Rule 613(c)(7)(ii)(C) requires CAT Reporters to record and report the ''[t]ime at which the order is routed.'' When reporting the receipt of an order that has been routed, Rule 613(c)(7)(iii)(C) requires CAT Reporters to record and report the ''[t]ime at which the order is received.'' When reporting the modification or cancellation of an order, Rule 613(c)(7)(iv)(C) further requires CAT Reporters to record and report the ''[t]ime the modification or cancellation is received or originated.''

[243] 17 CFR 242.613(d)(3).

[244] *See* Exemption Request Letter, *supra* note 5, at 37.

[245] *See id.* at 34.

[246] *See id.*

[247] *See id.* at 32–33.

[248] *Id.* at 36. The SROs take the position that because the recording of Manual Order Events is inherently imprecise, time stamps reported in increments finer than the inherent precision of the action will not likely contribute any data useful to regulators. *Id.* at 35. The SROs also believe that permitting one-second time stamps for Manual Order Events would preserve the sequential recording of Manual Order Events, and will not hinder the ability of regulators to determine the sequence of Manual Order Events. *Id.*

[249] *See id.* at 36.

[250] *See id.* at 32.

[251] *Id.*

longer to perform.[252] In this regard, the SROs note that a time stamp process for Manual Order Events would be inherently imprecise due to the nature of the manual recording process.[253] The SROs hence believe that such an approach would result in little additional benefit, and, in fact, could result in adverse consequences such as creating a false sense of precision for data that is inherently imprecise, while imposing additional costs on CAT Reporters.[254] For Manual Order Events that have an Electronic Capture time stamp, however, the SROs' proposed approach would require that such Electronic Capture time stamps be consistent with Rule 613(d)(3), and thus be at least to the millisecond.[255] The SROs conclude that adding the Electronic Capture time stamp would be beneficial for the reconstructing of the order handling process once Manual Order Events are entered into an electronic system.[256]

In the Exemption Request, the SROs provide examples of how CAT Reporters would record and report a Manual Order Event if the exemption is granted.[257] For example, if an investment advisor or broker received a telephone order from a Customer, the investment advisor or broker would either manually generate an order ticket with a time stamping device or manually input an order into an electronic system, including all order details and the time of order receipt, which may be generated through a time stamping mechanism on the order entry screen.[258] Under their proposed approach, the SROs represent that if a Manual Order Event were recorded manually, such event would be recorded with time stamp granularity at least to the second, but if such Manual Order Event were subsequently processed and captured electronically, that such electronic capture would be recorded with time stamp granularity at least to the millisecond.[259]

In support of their Exemption Request, the SROs considered their own experiences regarding time stamp requirements, and evaluated the various operational and technical issues related to the implementation of the time stamp granularity requirements of Rule 613 with regard to Manual Order Events.[260] In addition, as contemplated by Rule 613(a)(1)(xi), the SROs solicited the views of their members and other market participants.[261] In particular, the SROs consulted with the DAG, which strongly supports requiring a time stamp granularity of one second for Manual Order Events.[262] The SROs represent that they did not find any company that currently produces a manual time stamping device that records time to the millisecond.[263] With no known company producing such a device, the SROs state that the cost of adopting such technology is difficult to predict.[264] Nevertheless, the SROs believe that compliance with the millisecond time stamp requirements of Rule 613 for Manual Order Events would result in added costs to the industry, as there may be a need to upgrade databases, internal messaging applications/protocols, data warehouses, and reporting applications to enable the reporting of such time stamps to the Central Repository.[265] The SROs further represent that firms will face significant costs regarding time and resources to implement the millisecond time stamp policy across multiple systems because although many systems currently have granularity to the millisecond, some front-office systems only have granularity to the second.[266] Moreover, the SROs believe that such costs would be incurred only to adopt a time stamp process that would be inherently imprecise, due to the nature of the manual recording process.[267]

In the Exemption Request, the SROs represent that their proposed approach of one-second time stamp granularity for Manual Order Events would not negatively impact the reliability or accuracy of CAT Data,[268] or its security and confidentiality. Moreover, the SROs represent that the proposed approach for Manual Order Event time stamps would have a positive effect on competition, efficiency, and capital formation; the SROs represent that in this regard their approach would satisfy the Commission's regulatory goals for the CAT and would do so in a manner that minimizes cost, technology, and other burdens on CAT Reporters.[269]

Finally, the SROs represent that they considered various alternatives to requiring a one-second time stamp granularity for Manual Order Events, including: (1) Requiring a millisecond time stamp as required by Rule 613; (2) the proposed approach, requiring a manual time stamp granularity of one second; and (3) requiring a manual time stamp of greater than one second.[270] After weighing the merits of these various approaches,[271] the SROs conclude that a time stamp granularity of one second for Manual Order Events is the preferred approach because it is consistent with current established industry practice standards and would allow for sequencing without compromising the integrity of the data.[272]

2. Discussion of the SROs' Proposed Approach to Time Stamp Granularity

The Commission has carefully considered the information provided by the SROs in support of their request for exemptions from Rule 613(c)(7)(i)(E), 613(c)(7)(ii)(C), 613(c)(7)(iii)(C), 613(c)(7)(iv)(C), and 613(d)(3), as applicable to the recording and

[252] *Id.*

[253] *See id.* at 33.

[254] *Id.*

[255] *Id.*

[256] *Id.*

[257] *See id.* at 32–33 and Appendix A.

[258] The SROs note in their Exemption Request that the list of examples that they provide is not intended to be an exhaustive list of the circumstances where a Manual Order Event occurs. *See id.* at 33 n.77.

[259] *See id.*

[260] *See id.* at 35.

[261] 17 CFR 242.613(a)(1)(xi).

[262] *See* Exemption Request Letter, *supra* note 5, at 35.

[263] The SROs represented that they contacted three companies that manufacture time stamp devices, and each company confirmed that it did not currently produce any products that could record a time stamp to the millisecond for Manual Order Events. *See id.* at 33 n.80.

[264] *Id.* at 33.

[265] *Id.*

[266] *Id.* (citing to FIF's ''Response to Selected Topics of NMS Plan Document'' (June 2013)).

[267] *Id.*

[268] *Id.* at 35–36. The SROs do not believe that one-second granularity for Manual Order Events would affect the reliability or accuracy of data during (1) its transmission and receipt from market participants; (2) extraction, transformation, and loading at the Central Repository; (3) maintenance and management at the Central Repository; or (4) use by regulators. *Id.*

[269] *Id.* at 36.

[270] *Id.* at 37.

[271] In the Exemption Request Letter, the SROs note cost information that they considered regarding various time stamping clocks for Manual Order Events, including an estimated minimum total cost to the industry of approximately $10,500,000 for purchasing an advanced OATS compliance clock with granularity to the second and Network Time Protocol time synchronization, where the retail cost of each such clock is approximately $1,050. The SROs consider this a conservative estimate for their analysis because the development of a clock that captures time stamps in milliseconds, they believe, would be more expensive (though they do not provide a dollar estimate for comparison). The SROs add that the clock drift of the stamping mechanism would likely be more pronounced at the millisecond level of granularity. The SROs also note that the manufacturing firms they contacted, *see supra* note 263, indicated that manual time stamping at the millisecond level of granularity would be inherently imprecise, as it takes approximately 400–500 milliseconds for a human being to recognize visual stimuli and initiate a response, and due to the time required for a person to actually record a time stamp. The SROs conclude that the cost for reporting time stamps for Manual Order Events in milliseconds outweighs the benefits. *Id.* at 36–37.

[272] *Id.* at 37.

reporting of Manual Order Events.[273] The Commission believes that it is appropriate to provide sufficient flexibility so as not to preclude the approach described by the SROs in the Exemption Request.

Based on the information provided by the SROs in the Exemption Request, the Commission is persuaded to grant exemptive relief to provide flexibility such that the alternative approach to increment time stamps for capturing Manual Order Events described in the Exemption Request can be included in the CAT NMS Plan and subject to notice and comment. The Commission notes that the time stamp process for Manual Order Events may likely be inherently imprecise due to the nature of the manual recording process.

Therefore, the Commission finds that it is appropriate in the public interest and consistent with the protection of investors to exempt the SROs from Rule 613(c)(7)(i)(E), 613(c)(7)(ii)(C), 613(c)(7)(iii)(C), 613(c)(7)(iv)(C), and 613(d)(3).[274] The Commission notes that the proposed approach described in the Exemption Request would require that: (1) Manual Order Events be recorded and reported with granularity to the second, with the exception for system outages that prevent a floor broker from systemizing an order, in which case the requirement for recording of the manual time stamp will be made within a reasonable time frame basis after the fact; (2) Manual Order Events be identified as such in the CAT; and (3) the Electronic Capture of Manual Order Events be recorded and reported to the millisecond.[275]

III. Conclusion

Section 36 of the Exchange Act[276] authorizes the Commission, by rule, regulation, or order, to exempt, either conditionally or unconditionally, any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Exchange Act or any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors. For the reasons discussed throughout this Order, the Commission is granting the relief requested in the Exemption Request.

It is hereby ordered, pursuant to Section 36 of the Exchange Act[277] and with respect to the proposed approaches specifically described above, that the SROs are exempted from the following provisions of Rule 613: (1) for the reporting of options market maker quotations, Rule 613(c)(7)(ii) and (iv);[278] (2) for the reporting and use of the Customer-ID, Rule 613(c)(7)(i)(A), (iv)(F), (viii)(B) and (c)(8);[279] (3) for the reporting of the CAT-Reporter-ID with respect to broker-dealer CAT Reporters, Rule 613(c)(7)(i)(C), (ii)(D), (ii)(E), (iii)(D), (iii)(E), (iv)(F), (v)(F), (vi)(B), and (c)(8);[280] (4) for the linking of executions to specific subaccount allocations, Rule 613(c)(7)(vi)(A);[281] and (5) for time stamp granularity, Rule 613(c)(7)(i)(E), (ii)(C), (iii)(C), (iv)(C), and (d)(3).[282]

By the Commission.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–04910 Filed 3–4–16; 8:45 am]

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[273] 17 CFR 242.613(c)(7)(i)(E), (c)(7)(ii)(C), (c)(7)(iii)(C), (c)(7)(iv)(C), and (d)(3).

[274] 17 CFR 242.613(c)(7)(i)(E), (c)(7)(ii)(C), (c)(7)(iii)(C), (c)(7)(iv)(C), and (d)(3).

[275] *See* Exemption Request Letter, *supra* note 5, at 34 (defining ''Electronic Capture'' as when a Manual Order Event is captured electronically in the relevant order handling and execution system of the CAT Reporter).

[276] 15 U.S.C. 78mm.

[277] *Id.*

[278] 17 CFR 242.613(c)(7)(ii); 17 CFR 242.613(c)(7)(iv).

[279] 17 CFR 242.613(c)(7)(i)(A); 17 CFR 242.613(c)(7)(iv)(F); 17 CFR 242.613(c)(7)(viii)(B); 17 CFR 242.613(c)(8).

[280] 17 CFR 242.613(c)(7)(i)(C); 17 CFR 242.613(c)(7)(ii)(D); 17 CFR 242.613(c)(7)(ii)(E); 17 CFR 242.613(c)(7)(iii)(D); 17 CFR 242.613(c)(7)(iii)(E); 17 CFR 242.613(c)(7)(iv)(F); 17 CFR 242.613(c)(7)(v)(F); 17 CFR 242.613(c)(7)(vi)(B); and 17 CFR 242.613(c)(8).

[281] 17 CFR 242.613(c)(7)(iv)(A).

[282] 17 CFR 242.613(c)(7)(i)(E), (c)(7)(ii)(C), (c)(7)(iii)(C), (c)(7)(iv)(C), and (d)(3).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77268; File No. SR–NYSEARCA–2016–36]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Exchange Rule 7.21, Obligations of Market Maker Authorized Traders

March 1, 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 22, 2016, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, of which Items I and II have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Exchange Rule 7.21, Obligations of Market Maker Authorized Traders. 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 recently amended its rules to prescribe the Securities Traders examination (Series 57) (the ''Series 57 Examination'') as the qualifying examination for employees of ETP Holders (''Member'') engaged solely in proprietary trading.[4] Under current rules, Securities Traders and Market Maker Authorized Traders (''MMATs'') essentially perform similar functions. In the Series 57 Filing, which, among other things, amended Exchange rules regarding the registration requirements for Securities Traders, the Exchange also intended to amend Rule 7.21 to amend the registration requirements for MMATs but inadvertently failed to do so. The Exchange is now proposing to amend Rule 7.21 so that the registration requirements applicable to MMATs are the same as those imposed on Securities Traders. Specifically, Rule 7.21(b)(2) states that to be eligible for registration

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 76578 (December 8, 2015), 80 FR 77068 (December 11, 2015) (SR–NYSEArca–2015–117) (''Series 57 Filing'').

as a MMAT, a person must successfully complete the General Securities Representative Examination (Series 7) and complete a training and certification program sponsored by the Corporation.[5] The rule further provides that the examination requirement may be waived if an applicant MMAT has served as a dealer-specialist or market maker on a registered national securities exchange for at least two consecutive years within three years of the date of the application.[6] The Exchange does not intend to impose different registration requirements on MMATs than are required of Securities Traders. In order to satisfy the registration requirement, Securities Traders are required to successfully complete the Series 57 Examination.[7] The proposed amendment to Rule 7.21(b) would ensure that MMATs would also be required to successfully complete the Series 57 Examination in order to satisfy the Exchange's registration requirement.

The Exchange intends to announce the implementation date of the Series 57 registration requirement in a notice to members to be issued no later than 30 days after the effective date of the proposed rule change.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934 (''Act''),[8] in general, and furthers the objectives of Section 6(c)(3)(B)[9] of the Act, pursuant to which a national securities exchange prescribes standards of training, experience and competence for members and their associated persons, and Section 6(b)(5)[10] of the Act, in particular, in that it is designed, among other things, 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 proposed rule change, which would ensure that Securities Traders and MMATs are not subject to different registration requirements, is designed to maintain consistency in the Exchange's rules, which would promote just and equitable principles of trade and remove impediments to a free and open market. The Exchange believes that the proposed rule change to make the Series 57 Examination the qualifying exam for registration as a MMAT is appropriate because the Series 57 Examination addresses industry topics that establish the foundation for the regulatory and procedural knowledge necessary for MMATs to appropriately register under Exchange rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change does not impose any additional examination burdens on persons who are already registered. There is no obligation to take the Series 57 examination in order to continue in their present duties, so the proposed rule change is not expected to disadvantage current registered persons relative to new entrants in this regard.

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[11] and Rule 19b–4(f)(6) thereunder.[12] 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)[13] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative upon filing. The Exchange has stated that the proposed rule change promotes uniformity in registration requirements on the Exchange and that waiver of the operative delay would allow the Exchange to immediately create consistency in its rules. Waiving the operative delay would enable the Exchange to have and enforce the same examination requirement for MMATs as for securities traders, which the Exchange represents engage in the same activity, therefore 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 thirty-day operative delay.[15]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[16] 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–NYSEARCA–2016–36 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–NYSEARCA–2016–36. This file number should be included on the subject line if email is used. To help the

[5] *See* Rule 7.21(b).

[6] *Id.*

[7] *See* Rule 2.21.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(c)(3)(B).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A)(iii).

[12] 17 CFR 240.19b-4(f)(6).

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] 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).

[16] 15 U.S.C. 78s(b)(2)(B).

Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEARCA–2016–36 and should be submitted on or before March 28, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–04911 Filed 3–4–16; 8:45 am]

BILLING CODE 8011–01–P

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77266; File No. SR–BX–2016–008]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Withdrawal of Proposed Rule Change To Adopt Limit Order Protection and Market Order Protection

March 1, 2016.

On January 21, 2016, NASDAQ OMX BX, Inc. (the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 [1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt a Limit Order Protection and a Market Order Protection feature for members accessing the Exchange. The proposed rule change was published for comment in the **Federal Register** on February 5, 2016.[3] The Commission received no comment letters on the proposal. On February 26, 2016, the Exchange withdrew the proposed rule change.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[4]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–04908 Filed 3–4–16; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 77006 (February 1, 2016), 81 FR 6308.

[4] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77267; File No. SR–NASDAQ–2016–005]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Withdrawal of Proposed Rule Change To Adopt Limit Order Protection and Market Order Protection

March 1, 2016.

On January 12, 2016, The Nasdaq Stock Market LLC (the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 [1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt a Limit Order Protection and a Market Order Protection feature for members accessing the Exchange. The proposed rule change was published for comment in the **Federal Register** on January 27, 2016.[3] The Commission received no comment letters on the proposal. On February 26, 2016, the Exchange withdrew the proposed rule change.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[4]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–04909 Filed 3–4–16; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 76956 (January 21, 2016), 81 FR 4684.

[4] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77256; File No. SR–BATS–2016–23]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees as They Apply to the Equity Options Platform

March 1, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 24, 2015, Bats BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') (f/k/a BATS Exchange, Inc.) 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 Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act [3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change 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 the fee schedule applicable to Members [5] and non-members of the Exchange pursuant to Exchange Rules 15.1(a) and (c) (''Fee Schedule'').

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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] The term ''Member'' is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange.'' *See* Exchange Rule 1.5(n).

proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange's current approach to routing fees is to set forth in a simple manner certain sub-categories of fees that approximate the cost of routing to other options exchanges based on the cost of transaction fees assessed by each venue as well as costs to the Exchange for routing (*i.e.,* clearing fees, connectivity and other infrastructure costs, membership fees, etc.) (collectively, ''Routing Costs''). The Exchange then monitors the fees charged as compared to the costs of its routing services and adjusts its routing fees and/or sub-categories to ensure that the Exchange's fees do indeed result in a rough approximation of overall Routing Costs, and are not significantly higher or lower in any area. The Exchange proposes to adopt a routing fee in connection with the launch of the new options exchange, ISE Mercury, LLC (''ISE Mercury'') consistent with this approach.

The Exchange proposes to adopt fee code YC which would be appended to orders routed to ISE Mercury beginning February 16, 2016, which is the same date that ISE Mercury initiated trading.[6] Orders that yield fee code YC would be charged a fee of $0.99 per contract. Proposed fee code YC would be applied to all orders routed to ISE Mercury regardless of the capacity of the order [7] or whether the order is in a Penny Pilot Security [8] or not.

The Exchange anticipates that the proposed fee structure will approximate the cost of routing orders to ISE Mercury. The Exchange also notes that the proposed fee for fee code YC is higher than the fees charged by ISE Mercury and is designed to approximate Routing Costs based on the highest rate ISE Mercury charges.[9] As it has done historically in connection with the fee structure for routing to other options exchanges, the Exchange is proposing the charge set forth above to maintain a simple Fee Schedule with respect to routing fees that approximates the total cost of routing, including Routing Costs.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[10] in general, and furthers the objectives of Section 6(b)(4),[11] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. As explained above, the Exchange generally attempts to approximate the cost of routing to other options exchanges, including other applicable costs to the Exchange for routing. While the proposed fee for fee code YC is higher than the fees charged by ISE Mercury, the Exchange believes it is reasonable as it takes into account Routing Costs based on the highest rate charged by ISE Mercury. The Exchange believes that a pricing model based on approximate Routing Costs is a reasonable, fair and equitable approach to pricing. Specifically, the Exchange believes that its proposal to adopt routing fees to ISE Mercury is fair, equitable and reasonable because the fees are generally an approximation of the anticipated cost to the Exchange for routing orders to ISE Mercury. The Exchange notes that routing through the Exchange is voluntary. The Exchange also believes that the proposed fee structure for orders routed to and executed at ISE Mercury is fair and equitable and not unreasonably discriminatory in that it applies equally to all Members.

(B) Self-Regulatory Organization's Statement on Burden on Competition

These proposed rule changes do not 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 any of these changes represent a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors. Additionally, Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets. The Exchange does not believe that its proposed pricing for routing to ISE Mercury burdens competition, as such rates are intended to approximate the cost of routing to ISE Mercury. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels to be excessive or providers of routing services if they deem routing fee levels to be excessive. The Exchange believes that its proposal would not burden intramarket competition because the proposed rate would apply uniformly to all Members.

(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 unsolicited written comments from Members or other interested parties.

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 [12] and paragraph (f) of Rule 19b–4 thereunder.[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 necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

[6] *See* SEC Approves ISE's Form 1 Application for Third Options Exchange, dated February 1, 2016, *available at http://www.ise.com/press-room/press-releases/2016/february/ise-mercury-to-launch-on-february-16-2016/.* The Exchange initially filed the proposed fee change on February 16, 2016 (SR–BATS–2016–19). On February 18, 2016, the Exchange withdrew SR–BATS–2016–19 and submitted SR–BATS–2016–20. On February 24, 2016, the Exchange withdrew SR–BATS–2016–20 and submitted this filing.

[7] Order capacities include Customer, Professional, Firm, Broker-Dealer, Joint Back Office, Market Maker, and Away Market Maker. As defined in the Exchange's Fee Schedule.

[8] As defined in the Exchange's Fee Schedule.

[9] ISE Mercury's standard rates range from a rebate of $0.18 to a fee of $0.90 per contract. *See* ISE Mercury Fee Notice dated February 5, 2016 *available at http://www.ise.com/assets/mercury/documents/OptionsExchange/legal/fee/2016/ISE%20Mercury%20Fee%20Announcement$20160205.pdf.*

[10] 15 U.S.C. 78f.

[11] 15 U.S.C. 78f(b)(4).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f).

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–2016–23 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–2016–23. 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 Number SR–BATS–2016–23 and should be submitted on or before March 28, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–04906 Filed 3–4–16; 8:45 am]

BILLING CODE 8011–01–P

[14] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice: 9462]

Culturally Significant Objects Imported for Exhibition Determinations: ''Global by Design: Chinese Ceramics From the R. Albuquerque Collection'' 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 ''Global by Design: Chinese Ceramics from the R. Albuquerque Collection,'' 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 Metropolitan Museum of Art, New York, New York, from on or about April 25, 2016, until on or about August 7, 2016, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact the Office of Public Diplomacy and Public Affairs in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

Dated: March 1, 2016.

Mark Taplin,

Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2016–05128 Filed 3–4–16; 8:45 am]

BILLING CODE 4710–05–P

SURFACE TRANSPORTATION BOARD

[Docket No. EP 558 (Sub-No. 19)]

Railroad Cost of Capital—2015

AGENCY: Surface Transportation Board.

ACTION: Notice of decision instituting a proceeding to determine the railroad industry's 2015 cost of capital.

SUMMARY: The Board is instituting a proceeding to determine the railroad industry's cost of capital for 2015. The decision solicits comments on the following issues: The railroads' 2015 current cost of debt capital; the railroads' 2015 current cost of preferred equity capital (if any); the railroads' 2015 cost of common equity capital; and the 2015 capital structure mix of the railroad industry on a market value basis. Comments should focus on the various cost of capital components listed above using the same methodology followed in *Railroad Cost of Capital—2014,* EP 558 (Sub-No. 18) (STB served Aug. 7, 2015).

DATES: Notices of intent to participate are due by March 30, 2016. Statements of the railroads are due by April 20, 2016. Statements of other interested persons are due by May 11, 2016. Rebuttal statements by the railroads are due by June 1, 2016.

ADDRESSES: Comments may be submitted either via the Board's e-filing system or in the traditional paper format. Any person using e-filing should comply with the instructions at the E-FILING link on the Board's Web site, at *http://www.stb.dot.gov.* Any person submitting a filing in the traditional paper format should send an original and 10 copies to: Surface Transportation Board, Attn: Docket No. EP 558 (Sub-No. 19), 395 E Street SW., Washington, DC 20423–0001.

FOR FURTHER INFORMATION CONTACT: Pedro Ramirez at (202) 245–0333. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at (800) 877–8339.

SUPPLEMENTARY INFORMATION: The Board's decision is posted on the Board's Web site, *http://www.stb.dot.gov.* Copies of the decision may be purchased by contacting the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0238. Assistance for the hearing impaired is available through FIRS at (800) 877–8339.

Authority: 49 U.S.C. 10704(a).

Decided: March 1, 2016.

By the Board, Chairman Elliott, Vice Chairman Miller, and Commissioner Begeman.

Brendetta S. Jones,

Clearance Clerk.

[FR Doc. 2016–04967 Filed 3–4–16; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2015–0439]

Notification of Changes to the Definition of a High Risk Motor Carrier and Associated Investigation Procedures

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

ACTION: Notice of definition and procedural changes.

SUMMARY: This notice announces the Agency's efforts to improve the carrier prioritization process to enable safety investigators to take more immediate action against carriers with the highest crash risk. Specifically, FMCSA is announcing a new High Risk Motor Carrier definition and associated investigative procedural changes. These changes correspond with the ''Blueprint for Safety Leadership: Aligning Enforcement and Risk'' report issued by a Federal Aviation Administration Independent Review Team (IRT) in July 2014. The IRT recommended that FMCSA sharpen its priority-setting focus and improve the timeliness of investigator actions on those motor carriers representing the highest risk. This notice explains the Agency's new High Risk Motor Carrier definition and associated investigative procedural changes.

DATES: Comments on this notice must be received on or before May 6, 2016.

ADDRESSES: You may submit comments bearing the Federal Docket Management System Docket ID [FMCSA–2015–0439] using 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 0590–0001.

Hand Delivery or Courier: West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays.

Fax: 1–202–493–2251.

Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

FOR FURTHER INFORMATION CONTACT: For information concerning this notice, contact Mr. David Yessen, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, telephone 609–275–2606 or by email: *david.yessen@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Docket Services at (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Docket: For access to the docket to read background documents or comments, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The online Federal document management system is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

Background

With the implementation of the Compliance, Safety, Accountability (CSA) program in December 2010, FMCSA began using the Safety Measurement System (SMS) to identify high-risk carriers for onsite investigations (75 FR 18256). Section of 5305(a) of the recently enacted Fixing America's Surface Transportation Act, Public Law 114–94, (Dec. 4, 2015; 129 Stat. 1312) requires that FMCSA ensure, at a minimum, that a review is conducted on motor carriers that demonstrate through performance data that they are among the highest risk carriers for four consecutive months.

Under the previous policy, which is being superseded and can be found at 75 FR 18256, non-passenger carriers that meet or exceed specific SMS Behavior Analysis and Safety Improvement Category (BASIC) Intervention Thresholds for two consecutive months must receive an onsite investigation within 12 months, unless they received an onsite investigation within the previous 24 months. Passenger carriers that meet or exceed the specific BASIC Intervention Thresholds for one month must receive an onsite investigation in 90 days unless they received an onsite investigation within the previous 12 months. Carriers that meet these criteria are considered ''Mandatory'' for prioritization.

New Definition of High Risk

As part of FMCSA's continuing efforts to improve CSA, the Agency is improving the carrier prioritization process to enable safety investigators to take more immediate action against carriers with the highest crash risk. The Agency's efforts also correspond with the ''Blueprint for Safety Leadership: Aligning Enforcement and Risk'' report issued by a Federal Aviation Administration Independent Review Team (IRT) in July 2014. The IRT report recommended that FMCSA should sharpen its priority-setting focus and improve the timeliness of investigator actions on those motor carriers representing the highest risk. The IRT report noted that the current High Risk definition does not specify which carriers require the most urgent attention or allow for dynamic risk management.

For these reasons, FMCSA developed, and today announces that it is adopting, a new High Risk motor carrier definition. Under the new definition, passenger carriers are ''High Risk'' if they have two or more of the following Behavior Analysis and Safety Improvement Categories (BASICs), most closely correlated with crash risk, at or above the 90th percentile for one month and they have not received onsite investigation in the previous 12 months: Unsafe Driving, Crash Indicator; HOS Compliance, and Vehicle Maintenance. Non-passenger carriers are considered ''High Risk'' if they have two or more of these BASICs at or above the 90th percentile for two consecutive months and they have not received an onsite investigation in the previous 18 months.

The new definition will identify a smaller number of carriers, but this group of carriers will have a higher crash risk than the group of carriers identified under the current High Risk definition. This newly defined High Risk list will be the Agency's investigative priority. It will allow the Agency to more promptly conduct investigations of carriers that pose the greatest risk to public safety, rather than placing carriers at high crash risk in a longer queue of investigations.

In addition, to address those carriers with poor safety performance that will no longer fall under the High Risk definition, FMCSA will identify and monitor additional carriers with

significant crash risk using dynamic risk management tools recommended by the IRT. The term dynamic risk management refers to the techniques and processes that Agency managers will use to evaluate the safety performance of carriers on the Moderate-Risk, Risk, and Monitor lists, and to reprioritize these carriers as needed. Safety performance data analysis tools were developed to support the dynamic management decision-making process. The term ''Mandatory'' will no longer be used to identify carriers for investigation prioritization. FMCSA will also introduce other prioritization changes over the next year to address other carriers with significant indicators of non-compliance and to improve the Agency's ability to manage risk and respond appropriately based on the best available data. As a result, the Agency anticipates conducting a similar number of investigations as are currently conducted.

Table 1 below provides the approximate number of carriers that would be identified annually under the new High Risk definition and the Agency's additional risk tiers.

TABLE 1—NEW HIGH RISK CRITERIA CARRIERS AND CRASH RATES

	New High Risk	Moderate risk	Risk
Number of carriers identified in 12 months	2,800	1,500	9,200
Crash rate (24 months) per 100 Power Units *	18.25	14.25	10.80

* Current Mandatory Carrier Crash Rate: 13.35.

This change will not impact a carrier's safety fitness rating, authority to operate, or SMS percentiles, and will not change the SMS methodology, or how FMCSA makes enforcement decisions.

II. Summary of Changes

The following table defines the criteria for designating Passenger and Non-Passenger carriers as ''High Risk.'' Table 2 is offered as reference material to assist the public in understanding the new High Risk definition.

TABLE 2—PASSENGER AND NON-PASSENGER CARRIERS DESIGNATED AS ''HIGH RISK''

Criteria	Current mandatory	New High Risk
SMS BASIC Performance	• Unsafe Driving, Crash Indicator, or HOS Compliance BASICs greater than or equal to the 85th percentile and one other BASIC at or above the ''all other'' motor carrier threshold; or • Any four or more BASICs at or above the ''all other'' motor carrier threshold (65th/80th percentiles).	• Two or more of the following BASICs at or above the 90th percentile: ○ Unsafe Driving. ○ Crash Indicator, ○ HOS Compliance. ○ Vehicle Maintenance.
Passenger Carrier	Occurs in One Month	Occurs in One Month.
Non-Passenger Carrier	Occurs in Two Consecutive Months	Occurs in Two Consecutive Months.
Time Since Last Onsite Investigation	• Passenger—12 Months • Non-Passenger—24 Months	• Passenger—12 Months. • Non-Passenger—18 Months.

Issued on: February 16, 2016.

T.F. Scott Darling, III,

Acting Administrator.

[FR Doc. 2016–04972 Filed 3–4–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2015–0328]

Qualification of Drivers; Application for Exemptions; Hearing

AGENCY: Federal Motor Carrier Safety Administration (FMCSA).

ACTION: Notice of applications for exemptions; request for comments.

SUMMARY: FMCSA announces receipt of applications from 25 individuals for an exemption from the hearing requirement to operate commercial motor vehicles (CMVs) in interstate commerce. If granted, the exemptions would enable these individuals to operate CMVs in interstate commerce.

DATES: Comments must be received on or before April 6, 2016.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2015–0328 using any of the following methods:

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

• *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

• *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

• *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want

acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–113, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., *e.t.,* Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations (FMCSRs) for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. The 25 individuals listed in this notice have recently requested such an exemption from the hearing requirement in 49 CFR 391.41(b)(11), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

The physical qualification standard for drivers regarding hearing found in 49 CFR 391.41(b)(11) states that a person is physically qualified to drive a CMV if that person:

> First perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5–1951.

This standard was adopted in 1970 and was revised in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, 35 FR 6458, 6463 (April 22, 1970) and 36 FR 12857 (July 3, 1971).

II. Qualifications of Applicants

Eduardo Amaro

Mr. Amaro, age 47, holds an operator's license in New Mexico.

Paul Aseka

Mr. Aseka, age 36, holds an operator's license in Texas.

Thomas Buretz

Mr. Buretz, age 54, holds a class A CDL in Florida.

Tye Cox

Mr. Cox, age 28, holds an operator's license in Idaho.

James Dalrymple

Mr. Dalrymple, age 61, holds a class A CDL in Arizona.

John Dumars

Mr. Dumars, age 53, holds an operator's license in Florida.

Aaron Farley

Mr. Farley, age 42, holds an operator's license in West Virginia.

Samuel Fernell

Mr. Fernell, age 47, holds an operator's license in Ohio.

Heath Focken

Mr. Focken, age 27, holds an operator's license in Nebraska.

Michael Frutchey

Mr. Frutchey, age 48, holds a chauffeur license in Michigan.

Gregg Glass

Mr. Glass, age 53, holds an operator's license in Oregon.

Jaymes Haar

Mr. Haar, age 28, holds a class A CDL in Iowa.

Michael McCarthy

Mr. McCarthy, age 51, holds an operator's license in Minnesota.

Chad Meeker

Mr. Meeker, age 39, holds a CDL in Michigan.

John Norton

Mr. Norton, age 51, holds an operator's license in Michigan.

Taryn Peterson

Mr. Peterson, age 28, holds an operator's license in Nebraska.

Stephen Paiz

Mr. Paiz, age 31, holds an operator's license in New York.

David Quijano

Mr. Quijano, age 43, holds an operator's license in Hawaii.

Brian Shoup

Mr. Shoup, age 53, holds an operator's license in Ohio.

Ronald Sims

Mr. Sims, age 65, holds a class A CDL in Florida.

Edward Spreen

Mr. Spreen, age 35, holds an operator's license in Utah.

Fernando Valasquez

Mr. Valasquez, age 31, holds an operator's license in Texas.

Kyle Voss

Mr. Voss, age 26, holds an operator's license in Wisconsin.

Daron Washington

Mr. Washington, age 50, holds a class A CDL in Illinois.

William Weeaks

Mr. Weeaks, age 33, holds an operator's license in Oklahoma.

III. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the date section of the notice.

IV. Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2015–0328 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for

copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period. FMCSA may issue a final determination any time after the close of the comment period.

V. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2015–0328 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to this notice.

Issued on: February 24, 2016.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2016–04973 Filed 3–4–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2016–0002–N–6]

Agency Request for Emergency Processing of Collection of Information by the Office of Management and Budget

AGENCY: Federal Railroad Administration (FRA), United States Department of Transportation (US DOT).

ACTION: Notice.

SUMMARY: Consistent with the Paperwork Reduction Act of 1995 and its implementing regulations, this document provides notice that FRA is submitting the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) to collect information on Positive Train Control (PTC) implementation on an annual form and a quarterly form. FRA requests emergency processing and OMB authorization to collect the information on the annual form identified below five business days after publication of this Notice for a period of 180 days. FRA requests regular processing and OMB authorization to collect the information on the quarterly form identified below 90 days after publication of this Notice for a period of three years.

FOR FURTHER INFORMATION CONTACT: A copy of this individual ICR, with any public applicable supporting documentation, may be obtained by telephoning FRA's Office of Safety Information Collection Clearance Officer, Robert Brogan (tel. (202) 493–6292), or FRA's Office of Administration Information Collection Clearance Officer, Kimberly Toone (tel. (202) 493–6132); these numbers are not toll-free; or by contacting Mr. Brogan via facsimile at (202) 493–6216 or Ms. Toone via facsimile at (202) 493–6497, or via email by contacting Mr. Brogan at *Robert.Brogan@dot.gov,* or by contacting Ms. Toone at *Kim.Toone@dot.gov.* Comments or questions about any aspect of this ICR pertaining to the Quarterly PTC Progress Report Form should be directed to Mr. Brogan or Ms. Toone, while comments or questions about any aspect of this ICR pertaining to the Annual PTC Progress Report Form should be directed to OMB's Office of Information and Regulatory Affairs, Attn: FRA OMB Desk Officer.

SUPPLEMENTARY INFORMATION: Under 49 U.S.C. 20157, as amended by the Positive Train Control Enforcement and Implementation Act of 2015 (PTCEI Act) and the Fixing America's Surface Transportation (FAST) Act, each railroad required to implement a positive train control (PTC) system must provide information to FRA on its implementation progress. Under the PTCEI Act, each railroad subject to 49 U.S.C. 20157(a) must submit an annual progress report to FRA by March 31, 2016, and annually thereafter, until PTC implementation is complete. 49 U.S.C. 20157(c)(1). The amended statute specifically requires each railroad to provide certain information in the annual reports regarding its progress toward implementing PTC, and authorizes FRA to request that railroads provide additional information in the annual progress reports. *See id.* The annual progress report will report all progress for the previous calendar year.

In addition, 49 U.S.C. 20157(c)(2) requires FRA to conduct compliance reviews, at least annually, to ensure that each railroad is complying with its revised PTC implementation plan (PTCIP). The amended statute requires railroads to provide information to FRA that FRA determines is necessary to adequately conduct such compliance reviews. *See* 49 U.S.C. 20157(c)(2).

To effectively monitor compliance with PTC system implementation, FRA is proposing to require each subject railroad and entity to submit quarterly reports on its implementation progress, in addition to the annual progress reports, under the PTCEI Act and FRA's statutory and regulatory investigative authorities. *See* 49 U.S.C. 20157(c)(2); *see also* 49 U.S.C. 20107, 20902; 49 CFR 236.1009(h). Specifically, FRA is proposing that, in addition to the annual report due each March 31 under 49 U.S.C. 20157(c)(1), railroads must provide quarterly progress reports covering the preceding three-month period and submit the forms to FRA on the dates in the following table until full PTC system implementation is completed:

	Coverage eriod	Due dates for quarterly reports
Q1	January 1–March 31.	June 30, 2016, and each April 30 thereafter.
Q2	April 1–June 30	July 31.
Q3	July 1–September 30.	October 31.
Q4	October 1–December 31.	January 31.

FRA is delaying submission of the first quarterly form to allow time for the normal 60-days of notice and public comment directed to the agency and the additional 30 days of public comment directed to OMB while the submission undergoes OMB review as required under the Paperwork Reduction Act of 1995 and its concomitant regulations. Since the annual report is statutorily required by March 31, 2016, FRA is seeking Emergency Processing for the annual form.

Annual and quarterly reporting will enable FRA to effectively track and report railroad progress and compliance, and to perform its roles in enforcement and industry oversight. The proposed quarterly progress report form is formatted similar to the ''PTCIP template'' (FRA F 6180.164, OMB No. 2130–0553) and will be used to track railroads' progress on, and compliance with, the core quantitative implementation elements and goals, some of which are included in the railroads' revised PTCIPs. The quarterly frequency will allow FRA to identify potential trends so that it can manage its technical assistance and monitor compliance accordingly. The annual report is required by law, but FRA is providing guidance on what type of information must be provided to ensure consistency of the information industry provides to FRA and its usefulness to FRA for assessing progress and compliance.

FRA is proposing that each railroad must submit its quarterly progress reports and annual progress reports using Form FRA F 6180.165 and Form FRA F 6180.166, respectively.

FRA is proposing to let the less detailed monthly reporting that it currently requires (approved under

OMB No. 2130–0553) expire in June 2016 when railroads would be required to begin providing the quarterly progress reports.

As provided under 5 CFR 1320.13, FRA is requesting emergency processing for the new annual progress report collection of information under the Paperwork Reduction Act of 1995 and its implementing regulations. *See, e.g.,* 44 U.S.C. 3507; 5 CFR 1320.13. FRA cannot reasonably comply with normal clearance procedures since they would be reasonably likely to disrupt the collection of information. Each railroad is required to submit its annual PTC progress report by March 31, 2016, under 49 U.S.C. 20157(c)(1). Therefore, FRA cannot wait the typical 60-day period for public comment. Therefore, FRA is requesting OMB approval as soon as possible (*i.e.,* 5 business days after publication of this Notice) for this collection of information.

FRA is not requesting Emergency Processing for the quarterly PTC progress reports because the first quarterly reports will be due by June 30, 2016. The Paperwork Reduction Act of 1995, Public Law 104–13, sec. 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to provide 60-days' notice to the public for comment on information collection activities before seeking approval for reinstatement or renewal by OMB. 44 U.S.C. 35069(c)(2)(A); 5 CFR 1320.8(d)(1), 1320.10(e)(1), 1320.12(a). Here, FRA is seeking public comment on its proposed quarterly reporting form to gather the information FRA needs to conduct the compliance reviews the PTCEI Act requires and is requesting a minimum OMB review and approval period of 30 days after the 60-day comment period expires. Comments on any aspect of the Quarterly PTC Progress Report may be sent to the following: Federal Railroad Administration, 1200 New Jersey Ave. SE., Washington, DC 20590, Attention: Mr. Robert Brogan or Ms. Kim Toone; or via email at the following: *Robert.Brogan@dot.gov; Kim.Toone@dot.gov.* Copies of both proposed forms are published as attachments to this notice.

The associated collection of information is summarized below.

Title: Quarterly Positive Train Control (PTC) Progress Report Form and Annual Positive Train Control (PTC) Progress Report Form.

Reporting Burden:

	Respondent universe	Total annual responses	Average time per response (hours)	Total annual burden hours
Quarterly PTC Progress Report:				
Form FRA F 6180.165	41 Railroads	164 Reports/Forms	1.573	258
Annual PTC Progress Report:				
Form FRA F 6180.166	41 Railroads	41 Reports/Forms	38.41	1,575

Form Number(s): FRA F 6180.165; FRA F 6180.166.

Respondent Universe: 41 Railroads.

Frequency of Submission: On occasion.

Total Estimated Responses for New Quarterly and Annual PTC Progress Report Forms: 205.

Total Estimated Responses for Entire Information Collection: 147,776.

Total Estimated Annual Burden for New PTC Quarterly and Annual Progress Report Forms: 1,833 hours.

Total Estimated Burden for Entire Information Collection: 3,122,817.

Status: Emergency Review (Annual PTC Progress Report Form) and Regular Review (Quarterly PTC Progress Report Form).

Pursuant to 44 U.S.C. 3507(a) and 5 CFR 320.5(b), 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC, on March 1, 2016.

Corey Hill,

Acting Executive Director.

BILLING CODE 4910–06–P

OMB Control No. 2130-0553

Annual PTC Progress Report

[Year]

[Railroad Name]

[Docket Number]

The Annual Positive Train Control (PTC) Progress Report is due by March 31st of each year until full PTC system implementation is complete. The Annual PTC Progress Report must cover the railroad's implementation efforts and progress from the directly previous calendar year, and must be submitted electronically to the Federal Railroad Administration (FRA) via the FRA Secure Information Repository at https://sir.fra.dot.gov.

FRA F 6180.166 (2-16)

OMB Control No. 2130-0553

Name of Railroad or Entity Subject to 49 U.S.C. § 20157(a): Click here to enter railroad name.

Railroad Code: Choose railroad code.

Annual PTC Implementation Progress Report for: Choose the applicable year.

PTCIP Version Number of File with FRA (basis for goals stated): Click here to enter PTCIP Version Number.

Submission Date: Click here to enter a date.

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1. Summary

Please provide a narrative summary of overall PTC implementation progress during the preceding calendar year (January 1 to December 31):

Click here to enter text.

Category	Quantity Installed During Calendar Year	PTCIP Year End Goal (If Applicable)	Cumulative Quantity Installed at End of Calendar Year	Total Quantity Required for PTC Implementation
Locomotives Fully Equipped	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.
Installation/Track Segments Completed	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.
Radio Towers Fully Installed and Equipped	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.
Employees Trained	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.
Back Office Locations Completely Installed and Fully Operable	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.
Dispatching Locations Completely Installed and Fully Operable	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.
Route Miles In Testing or Revenue Service Demonstration	Click here to enter quantity (in miles).	Click here to enter quantity (in miles).	Click here to enter quantity (in miles).	Click here to enter quantity (in miles).
Route Miles in PTC Operation	Click here to enter quantity (in miles).	Click here to enter quantity (in miles).	Click here to enter quantity (in miles).	Click here to enter quantity (in miles).

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2. Update on Spectrum Acquisition

Required content:

- The amount of spectrum acquired and available for use during the applicable calendar year and the cumulative amount acquired and available for use at the end of the applicable calendar year, as compared to the amount the railroad stated would be acquired and available for use by the end of that calendar year and in total for PTC implementation, in the applicable revised PTCIP, as amended
- The basis for how the railroad is determining that the acquired spectrum is available for use by PTC radios (e.g., ensuring non-interference with other radios)

Spectrum Area or Location (E.g., county)	Spectrum Acquired and Available for Use (Owned/Leased) During Calendar Year	Cumulative Amount of Spectrum Acquired and Available for Use (Owned/Leased) at End of Calendar Year	PTCIP Year End Goal for Spectrum Acquired and Available for Use	Total Spectrum Required for PTC Implementation, as Reported in PTCIP
Spectrum Coverage Area or Location†: Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.

†Note: To add rows for additional spectrum areas or locations, click on the blue "+" symbol at the bottom right-hand corner. Please be sure to first click anywhere inside the table to activate this function.

If this function is unavailable for your document, please manually add additional rows.

Please provide any additional narrative for Spectrum Acquisition below:

Click here to enter text.

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3. Quantity Update on Hardware Installation

Required content:

- Separated by each major hardware category and subcategory identified below, the amount of PTC hardware installed during the applicable calendar year and the cumulative quantity installed at the end of the applicable calendar year, as compared to the amount the railroad stated would be installed by the end of that calendar year and in total for PTC implementation, in the applicable revised PTCIP, as amended

3.1. Locomotive Status

Category / Installation Feature	Quantity Installed During Calendar Year	PTCIP Year End Goal	Cumulative Quantity Installed at End of Calendar Year	Total Required for PTC Implementation, as Reported in PTCIP
Locomotive (Apparatus)[1]				
On-board Computers (e.g., Train Management Computer)	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.
Software For Train Management and other applications	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.
PTC Displays	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.
Event Recorders	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.
Onboard Antennas and/or Transponder Readers	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.
GPS Receivers	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.
Locomotive Radios – Primary Communications (e.g., 220 MHz radios)	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.

[1] Railroads may elect to add categories or subcategories if more detail is desired.

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Secondary Communications (e.g., cell or Wi-Fi communications) Equipment	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.

Please provide any additional narrative for Locomotive Status below:

Click here to enter text.

3.2. Infrastructure/Back Office Status

Category / Installation Feature	Locations Completed During Calendar Year	PTCIP Year End Goal	Cumulative Quantity Complete at End of Calendar Year	Total Required for PTC Implementation, as Reported in PTCIP
Infrastructure (Back Office)				
Dispatching Locations (installations complete)	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.
Back Office Locations (installations complete)	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.

Please provide any additional narrative for Infrastructure/Back Office Status below:

Click here to enter text.

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3.3. Installation/Track Segment Status

Category / Installation Feature	Quantity Installed During Calendar Year	PTCIP Year End Goal	Cumulative Quantity Installed at End of Calendar Year	Total Required for PTC Implementation, as Reported in PTCIP
Infrastructure – Wayside (by Installation/Track Segment)[2]				
Installation/Track Segment Identification†: Click here to enter installation/track segment identification.				
Wayside Interface Units†	Click here to enter sub quantity.	Click here to enter sub quantity.	Click here to enter sub quantity.	Click here to enter sub quantity.
Communication Towers or Poles†	Click here to enter sub quantity.	Click here to enter sub quantity.	Click here to enter sub quantity.	Click here to enter sub quantity.
Switch Position Monitors†	Click here to enter sub quantity.	Click here to enter sub quantity.	Click here to enter sub quantity.	Click here to enter sub quantity.
Planned Fiber or Ground Wiring (per mile)†	Click here to enter sub quantity.	Click here to enter sub quantity.	Click here to enter sub quantity.	Click here to enter sub quantity.
Wayside Radios†	Click here to enter sub quantity.	Click here to enter sub quantity.	Click here to enter sub quantity.	Click here to enter sub quantity.
Base Station Radios†	Click here to enter sub quantity.	Click here to enter sub quantity.	Click here to enter sub quantity.	Click here to enter sub quantity.

†Note: To add rows for additional installation/track segments and associated sub-components, click on the blue "+" symbol at the bottom right-hand corner. Please be sure to first click anywhere inside the table to activate this function.

If this function is unavailable for your document, please manually add additional rows.

[2] Each railroad should report information in a manner consistent with its PTCIP. That is, if a railroad monitors implementation of track segments by subdivision, it should report that way.

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Please provide any additional narrative for Installation/Track Segment Status below:

Click here to enter text.

4. Quantity Update on Employees Trained

Required content:

- Separated by each employee category identified below, the number of employees trained during the applicable calendar year and the cumulative number of employees trained at the end of the applicable calendar year, as compared to the number the railroad stated would be trained by the end of that calendar year and in total, in the applicable revised PTCIP, as amended

Employee Category[3]	Number of Employees Trained During Calendar Year	PTCIP Year End Goal	Cumulative Number of Employees Trained at End of Calendar Year	Total Reported in PTCIP
T&E Crew (Operations) Employees	Click here to enter number of employees.	Click here to enter number of employees.	Click here to enter number of employees.	Click here to enter number of employees.
Mechanical Employees	Click here to enter number of employees.	Click here to enter number of employees.	Click here to enter number of employees.	Click here to enter number of employees.
MOW/Engineering/ Roadway Worker Employees	Click here to enter number of employees.	Click here to enter number of employees.	Click here to enter number of employees.	Click here to enter number of employees.
Management Employees	Click here to enter number of employees.	Click here to enter number of employees.	Click here to enter number of employees.	Click here to enter number of employees.
Other Staff	Click here to enter number of employees.	Click here to enter number of employees.	Click here to enter number of employees.	Click here to enter number of employees.

Please provide any additional narrative for Employee Training below:

Click here to enter text.

[3] These categories are suggestive. All categories may not apply, and additional categories may be added based on the railroad's specific implementation needs.

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5. Progress on Implementation Schedule/Milestones

In its annual progress reports, each subject railroad and entity must provide a progress update with respect to its project schedule. A railroad should only submit schedule information demonstrating actual progress as measured against the schedule in its revised PTCIP, as amended. This could be accomplished by providing detailed project schedules and visual aids (e.g., a Gantt chart) if available, or any other information documenting current progress as compared to the implementation schedule in the railroad's revised PTCIP, as amended. Details regarding any notable variances or trends that are affecting, or could possibly affect, PTC implementation goals should also be explained in the annual progress reports. Where circumstances are adversely affecting a railroad's implementation of PTC, the railroad must also provide an action plan to recover from, or mitigate, any adverse consequences.

Required content:

- Schedule/Milestone Progress Information as described above
- The extent to which the railroad or other entity is complying with the implementation schedule it provided in its revised PTCIP, as amended

Please provide any additional narrative for Progress on Implementation Schedule/Milestones below:

Click here to enter text.

6. Summary Update of Challenges/Risks

Required content:

- Any update to the summary of remaining technical, programmatic, operational, or other challenges that the railroad or other entity provided in its revised PTCIP, as amended, including challenges with availability of public funding, interoperability, spectrum, software, permitting, and testing, demonstration, and certification
- Schedule Risk Updates (e.g., funding, technology, agreements)

Please provide Summary Update of Challenges/Risks below:

Click here to enter text.

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7. Progress on Revenue Service Demonstration (RSD) or Implementation

Required content:

- The total number of route miles on which PTC has been initiated for revenue service demonstration or implemented, as compared to the total number of route miles required to have a PTC system (see Section 1 Summary Table)
- Estimated start date (month and year) for RSD

Segment Identification[4]	Number of Route Miles in Segment	Status at End of Calendar Year *Current status of installation/track segment. Choose one:*	Estimated Start Date for Revenue Service Demonstration (if not already completed)
Segment *(add additional rows for segments as necessary):* Click here to enter segment identification.	Click here to enter number of route miles.	O Not Started O Installing O Testing O Operational/Complete	Click here to enter Date.

Note: To add additional rows, click on the blue "+" symbol at the bottom right-hand corner. Please be sure to first click anywhere inside the table to activate this function.

If this function is unavailable for your document, please manually add additional rows.

Please provide any additional narrative for Revenue Service Demonstration or Implementation below:

Click here to enter text.

[4] Segment identification should be consistent with segments listed in Section 3.3.

OMB Control No. 2130-0553

8. Update for Intercity or Commuter Rail Passenger Transportation (if applicable)

If this section is not applicable to your railroad, please mark N/A.

Required content (if applicable):

- For each entity providing regularly scheduled intercity or commuter rail passenger transportation, a description of the resources identified and allocated to implement PTC

Please provide Update for Intercity or Commuter Rail Passenger Transportation below, if applicable:

Click here to enter text.

9. Update on Interoperability Progress and Other Formal Agreements

Required content:

- For host railroads: provide updates to any agreements and key milestones for all tenant operations
- For tenant railroads: provide updates to any agreements and key milestones for all operations over tracks hosted by another railroad

Please provide Update on Interoperability below:

Click here to enter text.

OMB Control No. 2130-0553

10. Estimated PTC Safety Plan (PTCSP) Submission Date (if not already submitted)

If this section is not applicable to your railroad, please mark N/A.

PTCSP Submission Date
Click here to enter PTCSP Submission Date.

Please provide any additional narrative for PTCSP Submission below:

Click here to enter text.

11. Testing and Integration Efforts (if applicable, laboratory, integration, and revenue service demonstration)

Please provide Update on Testing and Integration efforts below:

Click here to enter text.

12. Updated Information That FRA Can Use to Maintain Its Geographic Information System (GIS) Database – Segments Complete and Operable

In its annual progress reports, a subject railroad or entity may submit a geographic information system (GIS) shapefile to indicate where various rail segments that must have PTC are located, as long as it includes the following fields: (1) a PTC attribute field (coded with "Y" if line segment is to have PTC installed, otherwise left blank); (2) a SUBDIV attribute field (populated with subdivision name); (3) a MONTH attribute field (populated with the month in which PTC is to be installed); and (4) a YEAR attribute field (populated with the year in which PTC is to be installed).

If a railroad chooses to submit the required information by means other than shapefile format, please inform FRA as to the railroad's preference prior to the March 31st annual reporting deadline.

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Please provide any additional narrative for GIS Information below:

Click here to enter text.

Public reporting burden for this information collection is estimated to average 38.41 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. According to the Paperwork Reduction Act of 1995, a federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information unless it displays a currently valid OMB control number. The valid OMB control number for this information collection is **2130-0553**. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection, including suggestions for reducing this burden to OMB's Office of Information and Regulatory Affairs, Attn: FRA OMB Desk Officer.

OMB Control No. 2130-0553

Quarterly Progress Report Form – Positive Train Control Implementation

Name of Railroad or Entity Subject to 49 U.S.C. § 20157(a): Click here to enter railroad name.

Railroad Code: Choose railroad code.

Positive Train Control (PTC) Implementation Quarterly Progress Report for: Choose the applicable quarter and year.

Date: Click here to enter a date.

Key Dates for PTC Implementation Quarterly Progress Reporting:

Period	Coverage Period	Progress Report Due Date
Q1	January 1 – March 31	June 30, 2016 and April 30 each year thereafter
Q2	April 1 – June 30	July 31
Q3	July 1 – September 30	October 31
Q4	October 1 – December 31	January 31

To effectively monitor each railroad's progress implementing PTC, FRA is requiring the submission of quarterly progress reports on this new Form FRA F 6180.165, beginning June 30, 2016, and April 30th each year thereafter under its investigative authorities. *See, e.g.*, 49 U.S.C. §§ 20107, 20902, 20157(c)(2); 49 C.F.R. § 236.1009(h). Railroads must use this form to report PTC implementation progress data quarterly, by the due dates set forth in the above table. Each railroad should select the correct quarter and year for each quarterly report. In the quarterly progress report form below, indicate "N/A" for instances when a category is not applicable.

Quarterly progress report forms must be submitted electronically to the Federal Railroad Administration (FRA) via the FRA Secure Information Repository (SIR) at https://sir.fra.dot.gov.

OMB Control No. 2130-0553

Quarterly Progress Report Form – Positive Train Control Implementation

I. Spectrum

Spectrum Area or Location (E.g., county)	Amount of Spectrum Acquired and Available for Use As of Applicable Quarter	Amount of Spectrum Required to Be Acquired and Available for Use By the End of the Calendar Year in the Applicable PTCIP	Describe Current Status
Spectrum Coverage Area or Location†: Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.

II. Summary

Category	Quantity Completed As of Applicable Quarter	Total Quantity Required for PTC Implementation
Locomotives Fully Equipped	Click here to enter quantity.	Click here to enter quantity.
Installation/Track Segments Completed	Click here to enter quantity.	Click here to enter quantity.
Radio Towers Fully Installed and Equipped	Click here to enter quantity.	Click here to enter quantity.
Employees Trained	Click here to enter quantity.	Click here to enter quantity.
Back Office Locations Completely Installed and Fully Operable	Click here to enter quantity.	Click here to enter quantity.
Dispatching Locations Completely Installed and Fully Operable	Click here to enter quantity.	Click here to enter quantity.

OMB Control No. 2130-0553

Quarterly Progress Report Form – Positive Train Control Implementation

III. Installation Schedule – Quarterly Reporting

Category / Installation Feature	Q1 – Quantity Installed	Q2 – Quantity Installed	Q3 – Quantity Installed	Q4 – Quantity Installed	Year-to-Date Cumulative Total	PTCIP Year End Goal	Grand Total Reported in PTCIP
Locomotive (Apparatus)[1]							
On-board Computers (e.g., Train Management Computer)	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.
Software For Train Management and Other Applications	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.
PTC Displays	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.
Event Recorders	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.
Onboard Antennas and/or Transponder Readers	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.
GPS Receivers	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.
Locomotive Radios – Primary Communications (e.g., 220 MHz radios)	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.

[1] Railroads may elect to add categories or subcategories if more detail is desired.

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Secondary Communications (e.g., Cell or Wi-Fi communications) Equipment	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.

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Quarterly Progress Report Form – Positive Train Control Implementation

Category / Installation Feature	Q1 – Quantity Installed	Q2 – Quantity Installed	Q3 – Quantity Installed	Q4 – Quantity Installed	Year-to-Date Cumulative Total	PTCIP Year End Goal	Grand Total Reported in PTCIP
Infrastructure (Back Office)							
Dispatching Locations (installations complete)	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.
Back Office Locations (installations complete)	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.	Click here to enter quantity.
Infrastructure – Wayside (by Installation/Track Segment)[2]							
Installation/Track Segment Identification†: Click here to enter installation/track segment identification.							
Wayside Interface Units†	Click here to enter sub quantity.	Click here to enter sub quantity.	Click here to enter sub quantity.	Click here to enter sub quantity.	Click here to enter sub quantity.	Click here to enter sub quantity.	Click here to enter sub quantity.
Communication Towers or Poles†	Click here to enter sub quantity.	Click here to enter sub quantity.	Click here to enter sub quantity.	Click here to enter sub quantity.	Click here to enter sub quantity.	Click here to enter sub quantity.	Click here to enter sub quantity.
Switch Position Monitors†	Click here to enter sub quantity.	Click here to enter sub quantity.	Click here to enter sub quantity.	Click here to enter sub quantity.	Click here to enter sub quantity.	Click here to enter sub quantity.	Click here to enter sub quantity.
Planned Fiber or Ground Wiring (per mile)†	Click here to enter sub quantity.	Click here to enter sub quantity.	Click here to enter sub quantity.	Click here to enter sub quantity.	Click here to enter sub quantity.	Click here to enter sub quantity.	Click here to enter sub quantity.

[2] Each railroad should report information in a manner consistent with its revised PTCIP. That is, if a railroad monitors implementation of track segments by subdivision, it should report that way.

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Quarterly Progress Report Form – Positive Train Control Implementation

Wayside Radios†	Click here to enter sub quantity.	Click here to enter sub quantity.	Click here to enter sub quantity.	Click here to enter sub quantity.	Click here to enter sub quantity.	Click here to enter sub quantity.	Click here to enter sub quantity.
Base Station Radios†	Click here to enter sub quantity.	Click here to enter sub quantity.	Click here to enter sub quantity.	Click here to enter sub quantity.	Click here to enter sub quantity.	Click here to enter sub quantity.	Click here to enter sub quantity.

†Note: To add rows for additional installation/track segments and associated sub-components, click on the blue "+" symbol at the bottom right-hand corner. Please be sure to first click anywhere inside the table to activate this function.

If this function is unavailable for your document, please manually add additional rows.

OMB Control No. 2130-0553

Quarterly Progress Report Form – Positive Train Control Implementation

IV.

Installation/Track Segment Progress – Current Status[3]

Note: For all live segments, please provide GIS shapefile or corresponding data for segments put into operation.

Segment Identification[4]	**Q1 Status** *Current status of installation/track segment.* ***Choose one:***	**Q2 Status** *Current status of installation/track segment.* ***Choose one:***	**Q3 Status** *Current status of installation/track segment.* ***Choose one:***	**Q4 Status** *Current status of installation/track segment.* ***Choose one:***
Segment *(add additional rows for segments as necessary):* Click here to enter segment identification.	O Not Started O Installing O Testing O Operational/Complete	O Not Started O Installing O Testing O Operational/Complete	O Not Started O Installing O Testing O Operational/Complete	O Not Started O Installing O Testing O Operational/Complete

Note: To add additional rows, click on the blue "+" symbol at the bottom right-hand corner. Please be sure to first click anywhere inside the table to activate this function.

If this function is unavailable for your document, please manually add additional rows.

[3] For passenger rail operations, this information should be further segregated into those routes where it is a host or tenant.

[4] Segment identification should be consistent with segments listed in Section III.

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Quarterly Progress Report Form – Positive Train Control Implementation

V. Employee Training – Quarterly Reporting

Employee Category[5]	Q1 - # Employees Trained	Q2 - # Employees Trained	Q3 - # Employees Trained	Q4 - # Employees Trained	Year-to-Date Cumulative Total	PTCIP Year End Goal	Grand Total Reported in PTCIP
T&E Crew (Operations) Employees	Click here to enter number of employees.	Click here to enter number of employees.	Click here to enter number of employees.	Click here to enter number of employees.	Click here to enter number of employees.	Click here to enter number of employees.	Click here to enter number of employees.
Mechanical Employees	Click here to enter number of employees.	Click here to enter number of employees.	Click here to enter number of employees.	Click here to enter number of employees.	Click here to enter number of employees.	Click here to enter number of employees.	Click here to enter number of employees.
MOW/Engineering/ Roadway Worker Employees	Click here to enter number of employees.	Click here to enter number of employees.	Click here to enter number of employees.	Click here to enter number of employees.	Click here to enter number of employees.	Click here to enter number of employees.	Click here to enter number of employees.
Management Employees	Click here to enter number of employees.	Click here to enter number of employees.	Click here to enter number of employees.	Click here to enter number of employees.	Click here to enter number of employees.	Click here to enter number of employees.	Click here to enter number of employees.
Other Staff	Click here to enter number of employees.	Click here to enter number of employees.	Click here to enter number of employees.	Click here to enter number of employees.	Click here to enter number of employees.	Click here to enter number of employees.	Click here to enter number of employees.

[5] These employee categories are suggestive. All categories may not apply, and additional categories may be added based on the railroad's specific implementation needs.

OMB Control No. 2130-0553

Quarterly Progress Report Form – Positive Train Control Implementation

VI. Update on Interoperability Progress

This section is provided to help railroads describe interoperability information. Please provide appendices as appropriate.

Update on Interoperability
Host railroads: Please provide 1) updates to any agreements and key milestones for all tenant operations, 2) the number of tenants required to PTC-equip at least one locomotive to operate over the host's territory, and 3) the status of each tenant's progress (if that tenant did not file its own PTCIP).
Tenant Railroads: Please provide updates to any agreements and key milestones for all operations over tracks hosted by another railroad.

Public reporting burden for this information collection is estimated to average 1.573 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. According to the Paperwork Reduction Act of 1995, a federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information unless it displays a currently valid OMB control number. The valid OMB control number for this information collection is **2130-0553**. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection, including suggestions for reducing this burden to: Information Collection Officer, Federal Railroad Administration, 1200 New Jersey Avenue, S.E., Washington D.C. 20590.

[FR Doc. 2016–04882 Filed 3–4–16; 8:45 am]

BILLING CODE 4910–06–C

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2015–0125]

Columbia Body Manufacturing Co.; Grant of Petition for Temporary Exemption From FMVSS No. 224

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of grant of petition for temporary exemption from FMVSS No. 224, *Rear Impact Protection.*

SUMMARY: In accordance with 49 U.S.C. 30113 and 49 CFR part 555, NHTSA is granting a petition from Columbia Body Manufacturing Co. (''Columbia Body'' or ''petitioner''), a small volume manufacturer, for a temporary exemption from Federal Motor Vehicle Safety Standard (FMVSS) No. 224, *Rear impact protection,* for certain gravity feed dump body trailers (''dump body trailers''). This exemption is based on the agency's determination that compliance with FMVSS No. 224 would cause substantial economic hardship to a manufacturer that has tried to comply in good faith with the standard, and that such an exemption is consistent with the public interest. Columbia Body must affix certification labels to the exempted trailers stating they have been exempted from FMVSS No. 224.

DATES: The subject vehicles manufactured by Columbia Body are exempted from FMVSS No. 224, *Rear Impact Protection* until March 7, 2019.

FOR FURTHER INFORMATION CONTACT: For legal questions, contact Mr. Ryan Hagen, Office of the Chief Counsel, NCC–200, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., West Building 4th Floor, Washington, DC 20590. Telephone: (202) 366–2992; Fax: (202) 366–3820. For technical questions, contact Mr. Robert Mazurowski, Office of Crashworthiness Standards, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., West Building 4th Floor, Washington, DC 20590. Telephone: (202) 366–1012; Fax: (202) 493–2990.

SUPPLEMENTARY INFORMATION: In accordance with 49 U.S.C. 30113 and 49 CFR part 555, NHTSA is granting a petition from Columbia Body, a small volume manufacturer, for a temporary exemption from FMVSS No. 224, *Rear impact protection,* for dump body trailers. The agency is granting this petition because compliance with the standard would cause substantial economic hardship to a small volume manufacturer that has tried to comply with the standard in good faith. NHTSA believes Columbia Body has put forth a good faith effort to research and explore potential options to comply with FMVSS No. 224. As discussed below, NHTSA also believes that, because dump body trailers help build and maintain public infrastructure, and because the safety implications of this grant are minimal, granting this exemption is consistent with the public interest and the National Traffic and Motor Vehicle Safety Act. Additionally, NHTSA received no public comments on this petition.

The petitioner's exemption will be limited to 210 dump body trailers over the next three years. Columbia Body must include language on the certification labels it affixes to the exempted dump body trailers it manufactures notifying the public that the vehicle has been exempted from FMVSS No. 224.

A. Statutory Authority for Temporary Exemptions

The National Traffic and Motor Vehicle Safety Act (Safety Act), codified at 49 U.S.C. Chapter 301, provides the Secretary of Transportation authority to exempt, on a temporary basis and under specified circumstances, motor vehicles from a motor vehicle safety standard or bumper standard. This authority is set forth at 49 U.S.C. 30113. The Secretary of Transportation has delegated the authority for implementing this section to NHTSA.

In recognition of the more limited resources and capabilities of small manufacturers, authority to grant exemptions based on substantial economic hardship and good faith efforts is provided in the Safety Act to enable the agency to give those manufacturers additional time to comply with motor vehicle safety standards. The Safety Act authorizes the Secretary to grant a temporary exemption to a manufacturer whose total motor vehicle production in the most recent year of production is not more than 10,000 motor vehicles, on such terms as the Secretary deems appropriate, if the exemption would be consistent with the public interest and the Safety Act and ''compliance with the standard would cause substantial economic hardship to a manufacturer that has tried to comply with the standard in good faith.'' (49 U.S.C. 30113(b)(3)(B)(i)).

NHTSA established 49 CFR part 555, *Temporary Exemption from Motor Vehicle Safety and Bumper Standards,* to implement the statutory provisions concerning temporary exemptions. Under Part 555, a petitioner must provide specified information in submitting a petition for exemption. These requirements are specified in 49 CFR 555.5, and include a number of items. Foremost among them are that the petitioner must set forth the basis of the application under § 555.6, and the reasons why the exemption would be in the public interest and consistent with the objectives of the Safety Act (49 U.S.C. Chapter 301).[1] A manufacturer is eligible to apply for a hardship exemption if its total motor vehicle production in its most recent year of production did not exceed 10,000 vehicles, as determined by the NHTSA Administrator (49 U.S.C. 30113).

B. Rear Impact Protection

FMVSS No. 224, *Rear impact protection,*[2] requires that all trailers with a gross vehicle weight rating (GVWR) of 4,536 kilograms (kg) (10,000 pounds (lb)) or more be fitted with a rear impact guard that conforms to FMVSS No. 223, *Rear impact guards.*[3] This requirement, however, has presented problems for certain specialized vehicles, such as road construction vehicles where interaction between the rear impact guard and the specialized paving or dumping equipment can cause engineering challenges. In 2004, NHTSA finalized a rule that excludes road construction controlled horizontal discharge semitrailers (RCC horizontal discharge trailers), which discharge asphalt to a paving machine by use of a mechanical drive and conveyor belt.[4] In that final rule, NHTSA concluded that the installation of rear impact guards would interfere with the intended function of the trailers and were impractical, given the design and mission of these trailers.

[1] While 49 U.S.C. 30113(b) states that exemptions from a Safety Act standard are to be granted on a ''temporary basis,'' (49 U.S.C. 30113(b)(1)) the statute also expressly provides for renewal of an exemption on reapplication. Manufacturers are nevertheless cautioned that the agency's decision to grant an initial petition in no way predetermines that the agency will repeatedly grant renewal petitions, thereby imparting semi-permanent status to an exemption from a safety standard. Exempted manufacturers seeking renewal must bear in mind that the agency is directed to consider financial hardship as but one factor, along with the manufacturer's ongoing good faith efforts to comply with the regulation, the public interest, consistency with the Safety Act, generally, as well as other such matters provided in the statute.

[2] 49 CFR 571.224.

[3] 49 CFR 571.223.

[4] 69 FR 67663 (November 19, 2004). Available at: *https://www.federalregister.gov/articles/2004/11/19/04-25703/federal-motor-vehicle-safety-standards-rear-impact-guards-final-rule* (last accessed on November 5, 2015).

The 2004 final rule decided against a regulatory exemption for gravity feed dump trailers, which do not have the mechanical drive and conveyor belt as discussed above, because gravity feed dump trailers can be versatile vehicles used for a wide variety of tasks. NHTSA was concerned that creating an exemption in the regulation itself for gravity feed dump trailers could potentially permit a large vehicle population with greater exposure than RCC horizontal discharge trailers to be exempted from the standard. Instead, NHTSA anticipated dealing with gravity feed dump trailers through the exemption process.[5] Prior to that final rule, NHTSA had granted an exemption to gravity feed dump trailers manufactured by Columbia Body.[6] Since that final rule, NHTSA has continued to grant exemptions to manufacturers of gravity feed dump trailer manufacturers through the procedures in 49 CFR part 555.[7]

C. Overview of Columbia Body's Petition

Consistent with 49 U.S.C. 30113 and the procedures in 49 CFR part 555, Columbia Body of Clackamas, Oregon, a small volume trailer manufacturer, petitioned the agency for a three year temporary exemption from the rear impact protection requirements in FMVSS No. 224 based on substantial economic hardship.

Columbia Body is a small manufacturer that currently employs 40 full time employees and has annual sales of $5–6 million. It produces two, three, and four axle ''dump style'' trailers that use a hydraulic hoist to raise the front end of the trailer and discharge its load through the tailgate. Columbia Body has produced an average of 17 trailers that do not require an exemption per year over the last three years.

Columbia Body states that recently, many of its gravity feed dump body competitors have gone bankrupt, leading purchasers to request the trailers from Columbia Body. Given the recent requests, Columbia Body seeks to ensure it is able to fill any potential orders. If the exemption were granted, Columbia Body projects that it would sell no more than 70 of the exempted trailers per year. Columbia Body states that the trailers in question are designed specifically for use with paving machines. Without an exemption, Columbia Body states it will suffer substantial economic hardship, projecting it will have to lay off seven or eight of its 40 employees starting in 2016.

In its application, Columbia Body provides specific financial information from the last three years. In 2012, Columbia Body posted a net loss of $108,000, followed by a $215,000 loss in 2013. In 2014, it posted a net profit of $302,000. If an exemption is not granted, Columbia Body projects it will post a $169,000 net profit for 2016, in comparison to $1 million net profit if an exemption is granted.

Columbia Body states that it has put forth a good faith effort to comply with FMVSS No. 224, however, is not possible for the company to produce a trailer at a reasonable price and with the utility its customers require for paving. Specifically, the rear end of the type of trailer in question interfaces with the front end of an asphalt paving machine, dumping hot asphalt into the paving machine's receiver. To establish this connection, the paving machine hooks to the rear wheels of the dump trailer. In order to prevent asphalt from spilling out while being transferred from the dump trailer to the paving machine, the paving machine fits 16 to 18 inches beneath the bottom of the dump trailer. The interaction between the dump trailer and paving machine occurs in the space where an underride guard would otherwise reside.

Columbia Body states that it has looked into possible solutions to this problem, including $50,000 in research in 2005 and 2006 to evaluate solutions to comply with FMVSS No. 224. One solution included adding removable underride guards. Columbia Body states, however, that ''[e]ven if we could install a removable underride guard it will put equipment operators in an unsafe situation installing and removing the guard.'' The petitioner states that the area where a removable underride guard would be installed is often covered in asphalt buildup. Additionally, Columbia Body believes that the cleaning, maintenance, and heavy impacts on the underride guard and the area immediately around it when contacting the paving machine would affect the structural integrity of the underride guard.

Another solution Columbia Body states it looked into involved constructing a sub-frame ''with the ability to slide the dump body forward when in transit and slide it to the rear to provide the proper over hang [sic] when paving.'' Columbia Body states that although this design is possible, conversations with prospective customers indicate the design ''would not be acceptable'' because of the added cost and weight associated with building such a structure.

Columbia Body states that so long as the paving industry continues to use the same method of paving roads, it remains a physical impossibility to manufacture this type of trailer and comply with FMVSS No. 224.

In support of its petition for exemption, Columbia Body notes that gravity feed dump trailers have limited highway exposure due to their function. Specifically, the trailers themselves are on the road for short periods of time. ''Asphalt batch plants are typically set close to the paving activity to limit time traveling between the two paving activities.'' Additionally, the petitioner states that in many instances, these paving machines are often performing their transport tasks away from the driving public in restricted access construction areas.

Finally, Columbia Body believes its ability to obtain an exemption is in the public interest. Columbia Body has informed NHTSA that customers requesting its gravity feed dump trailers are doing so in order to pave local roadways. Many purchasers are local municipalities, or companies that support local municipalities in creating and maintaining roads for the traveling public. Therefore, the petitioner believes supplying gravity feed dump trailers is in the public interest.

D. Notice of Receipt and Summary of Comments

On December 17, 2015, NHTSA sought comment on Columbia Body's petition by publishing a notice of receipt in the **Federal Register**.[8] NHTSA received no comments on the petition.

E. Final Decision

Columbia Body petitioned NHTSA for a temporary exemption from FMVSS No. 224 under 49 U.S.C. 30113(b)(3), and in accordance with NHTSA's regulations at 49 CFR 555.6. NHTSA may grant such a petition if it finds that compliance with the standard would

[5] *Id.* at 67666.

[6] 68 FR 7406 (February 13, 2003). Available at: *http://www.regulations.gov/contentStreamer?documentId=NHTSA-2002-13955-0004&disposition=attachment&contentType=pdf* (last accessed on November 6, 2015).

[7] See: 69 FR 30989 (June 1, 2004), available at: *https://www.federalregister.gov/articles/2004/06/01/04-12334/reliance-trailer-co-llc-grant-of-application-for-renewal-of-temporary-exemption-from-federal-motor* (last accessed on November 6, 2015), and 74 FR 42142 (August 20, 2009), available at: *https://www.federalregister.gov/articles/2009/08/20/E9-19956/beall-corporation-grant-of-application-for-a-temporary-exemption-from-fmvss-no-224* (last accessed on November 9, 2015).

[8] See: 80 FR 78817 (December 17, 2015), available at: *https://www.federalregister.gov/articles/2015/12/17/2015-31709/columbia-body-manufacturing-co-receipt-of-petition-for-temporary-exemption-from-fmvss-no-224* (last accessed on January 2016).

cause substantial economic hardship to a small volume manufacturer [9] that has tried to comply with the standard in good faith, and that granting such an exemption is consistent with the public interest. NHTSA believes these exemption criteria are satisfied.

First, based on the detailed financial documentation Columbia Body has provided the agency, NHTSA believes Columbia Body would suffer substantial economic hardship without an exemption for its dump body trailers. Columbia Body posted a cumulative net loss over the last three years. Looking forward, Columbia Body would have to lay off seven to eight of its 40 employees in 2016.

Second, Columbia Body has demonstrated that it has made good faith efforts to comply with FMVSS No. 224. The dump body trailers subject to this petition are designed to attach to a paving machine that secures to the rear end of the dump body trailer. When attached to the dump body trailer, the paving machine hooks to the rear wheels of the trailer and tucks underneath the rear end of the dump body trailer. This interaction between the dump body trailer and a paving machine thwarts the installation of an underride guard. Despite the known design challenges, Columbia Body invested a significant amount of time and money investigating a way to comply with FMVSS No. 224 while maintaining the dump body trailer's paving utility. It developed potential solutions to the compliance challenges, and invested in a finite element analysis of the situation. Further, Columbia Body discussed the resulting potentially compliant design with prospective paving customers, who responded that an increase in cost and loss of payload capability were not acceptable for their business needs. From its research, Columbia Body reasonably concluded that it could not produce its dump body trailers with compliant guards unless paving machines are modified to no longer hook to the rear wheels of the dump body trailer. Such redesign of paving machines was not practical.

In the 2004 final rule amending FMVSS No. 224, NHTSA stated that ''[i]n certain limited circumstances, the agency [will grant] temporary exemption to gravity feed dump trailer manufacturers based, in part, on impracticability of compliance.'' [10] We have closely evaluated the petition and conclude that practicability problems posed by Columbia Body's dump body trailers support a grant of the petition.

Third, NHTSA believes it is consistent with the public interest to grant Columbia Body this exemption. The overhang required by these trailers, while not exclusive to paving applications, is specifically manufactured to attach to a paving machine. These trailers serve as a tool for paving asphalt surfaces, most commonly, public roads; they are needed for that public function. Given the few remaining companies that produce dump trailers for paving, we believe that the exemption would result in more dump trailers being available for paving and other purposes, which would facilitate construction projects. Further, because these trailers are used primarily in road construction applications, their exposure to the traveling public is reduced. In many instances, these trailers are traveling in restricted area construction zones or with a paving machine attached to the rear end.

Moreover, the impact on safety by this exemption is further limited by the fact that relatively few vehicles would be affected. The number of exempted trailers allowed under this exemption is tailored to Columbia Body's projected production over the next three years, meaning that a maximum of only 210 trailers in total will be exempted.

NHTSA also considered the impacts of not granting the exemption. Columbia Body states that the failure to receive an exemption could cause it to lay off seven to eight of its 40 employees starting in 2016. Given the practicability problems the petitioner faces in meeting FMVSS No. 224 and the efforts made to comply, the negligible safety impacts of an exemption, and the increased availability of dump trailers as a result of an exemption, we do not believe that the potential job losses would be warranted. Taking all of these things into consideration, NHTSA believes this exemption is in the public interest.

Based on the exemption requirements and the information before the agency, NHTSA is issuing a temporary exemption to Columbia Body from FMVSS No. 224 for a period of three years for the dump body trailers it manufactures for paving applications.[11] This exemption is limited to 210 trailers during the temporary exemption period. Further, dump body trailers that are exempted from FMVSS No. 224 must display certification labels noting this exemption as required by 49 CFR 555.9(c).

Columbia Body is granted NHTSA Temporary Exemption No. EX 16–01, from FMVSS No. 224.

Authority: 49 U.S.C. 30113; delegation of authority at 49 CFR 1.95.

Issued on: February 29, 2016.

Mark R. Rosekind,

Administrator.

[FR Doc. 2016–04971 Filed 3–4–16; 8:45 am]

BILLING CODE 4910–59–P

[9] ''A manufacturer is eligible for an exemption . . . only if the Secretary determines that the manufacturer's total motor vehicle production in the most recent year of production is not more than 10,000.'' 49 U.S.C. 30113(d).

[10] 69 FR 67663 (November 19, 2004). Available at: *https://www.federalregister.gov/articles/2004/11/19/04-25703/federal-motor-vehicle-safety-standards-rear-impact-guards-final-rule* (last accessed on January 7, 2016).

[11] As noted previously in this notice, the gravity dump body trailers Columbia Body seeks an exemption for require 16 to 18 inches of clearance rearward of the rear wheels.

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Revision; Submission for OMB Review; Domestic First Lien Residential Mortgage Data

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a revision to an information collection, as required by the Paperwork Reduction Act of 1995 (PRA).

Under the PRA, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of or revision to an existing collection of information, and to allow 60 days for public comment in response to the notice.

In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The OCC is soliciting comment concerning a revision to its information collection titled, ''Domestic First Lien Residential Mortgage Data.''

DATES: You should submit written comments by: April 6, 2016.

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by

email, if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–0331, 400 7th Street SW., Suite 3E–218, mail stop 9W–11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465–4326 or by electronic mail to *prainfo@occ.treas.gov.* You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700 or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Additionally, please send a copy of your comments by mail to: OCC Desk Officer, 1557–0331, U.S. Office of Management and Budget, 725 17th Street NW., #10235, Washington, DC 20503, or by email to: *oira submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, Clearance Officer, (202) 649–5490 or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: The OCC is requesting OMB approval for the following information collection:

Title: Domestic First Lien Residential Mortgage Data.

OMB Control Number: 1557–0331.

Description:

Comprehensive mortgage data is vital to assessing and monitoring credit quality and loss mitigation activities in the residential mortgage market and the federal banking system. This data is important and necessary to support supervisory activities to ensure the safety and soundness of the federal banking system.

The Dodd-Frank Wall Street Reform and Regulatory Improvement Act of 2010 requires the OCC to collect this mortgage data. 12 U.S.C. 1715z–25.

This data collection is being revised to include aggregate values to be calculated from data that is currently reported in loan-level format. These aggregate values will be industry standard measures of portfolio performance, including but not limited to: Outstanding loan count and unpaid principal balance; delinquency and liquidation ratios; and the number of loss mitigation actions completed. Aggregate values generally will be reported at the total portfolio and state level, with some values also reported by portfolio segments including, but not limited to: Borrower credit class and type and execution date of loss mitigation action.

The reported data items will still be calculated from loan-level data that includes: Bankruptcy or foreclosure status; and other detailed loan information. Banks would not be required to report this data to the OCC monthly, but would be required to provide it upon OCC's request.

Type of Review: Regular review.

Affected Public: Businesses or other for-profit.

Burden Estimate:

Estimated Number of Respondents: 61.

Estimated Annual Responses per Respondent: 4 per year.

Estimated Burden per Response: 120 hours per month/per bank.

Estimated Total Annual Burden: 29,280 hours.

The OCC published notice of this collection for 60 days of comment on November 16, 2015, 80 FR 70880. No comments were received. Comments continue to be invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information shall have practical utility;

(b) The accuracy of the OCC's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: March 1, 2016.

Mary Hoyle Gottlieb,

Regulatory Specialist, Legislative & Regulatory Activities Division.

[FR Doc. 2016–04896 Filed 3–4–16; 8:45 am]

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Part II

Department of Homeland Security

Coast Guard

46 CFR Parts 401, 403, and 404

Great Lakes Pilotage Rates—2016 Annual Review and Changes to Methodology; Final Rule

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Parts 401, 403, and 404

[USCG–2015–0497]

RIN 1625–AC22

Great Lakes Pilotage Rates—2016 Annual Review and Changes to Methodology

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard revises its Great Lakes pilotage ratemaking methodology, adjusts annual pilotage rates based on the new methodology, and authorizes a temporary surcharge to hire additional pilots and to pay for necessary training for new and current pilots. Rates for pilotage services on the Great Lakes were last revised in February 2015 and by law must be reviewed annually, with any adjustments to take effect by March 1 of the year for which new rates are established. The Coast Guard intends for the methodology changes to be understandable and transparent, and to encourage investment in pilots, infrastructure, and training while helping ensure safe, efficient, and reliable service on the Great Lakes. Without the updates to this methodology and enforcement of these rates, the Coast Guard believes the pilot associations will not be able to recruit experienced mariners, retain current pilots, or maintain and upgrade association infrastructure. Without sufficient registered pilots, current law will prevent international vessels from transiting the Great Lakes. This rulemaking promotes the Coast Guard's maritime safety and stewardship (environmental protection) missions by promoting safe shipping on the Great Lakes.

DATES: This final rule is effective April 6, 2016.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble, are available at *http://www.regulations.gov.* Insert USCG–2015–0497 in the ''Keyword'' box, then click ''Search.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Todd Haviland, Director, Great Lakes Pilotage, Commandant (CG–WWM–2), Coast Guard; telephone 202–372–2037, email *Todd.A.Haviland@uscg.mil*, or fax 202–372–1914.

SUPPLEMENTARY INFORMATION:

Executive Summary

This rulemaking will change the methodology by which the Coast Guard sets base rates for U.S. Great Lakes registered pilotage service, set rates according to the new methodology, and impose a temporary surcharge to offset the costs of hiring and training new pilots. The Great Lakes pilotage statutes in 46 U.S.C. chapter 93 provide the legal basis for this rulemaking. The new effective date better aligns with the opening of the shipping season in early spring than the previous implementation date in August, which was based on the effective date of compensation changes in a benchmark union contract, which is no longer available to the Coast Guard.

The Coast Guard is revising the current methodology in place since 1995 for two reasons. First, for at least 15 years both pilots and industry have identified certain methodology issues that perpetuate inaccuracy in the ratemaking calculations. The pilots asserted these inaccuracies have led to revenue shortfalls that impede their ability to provide safe, efficient, and reliable pilotage service. They said these shortfalls are the primary reason that the associations could not provide sufficient pilot compensation to attract, hire, and retain qualified pilots. Furthermore, due to the revenue shortfalls, the associations lacked funding needed to maintain and update their infrastructure and provide adequate rest for pilots during the shipping season. Industry has agreed that there is a shortage of qualified pilots and said that the decay of association infrastructure jeopardized the pilots' ability to ensure vessel safety and provide efficient, reliable service. We believe the current methodology fails to consider the totality of pilot time necessary to perform a given pilotage assignment, which often includes long transits to and from the vessel, resulting in low pilot compensation and overloaded work assignments.

Second, the 1995 methodology used a detailed breakdown of union compensation for merchant marine masters and mates as the benchmark for setting registered pilotage rates. Only one union's contract had ever been available to the Coast Guard for the purpose of setting pilotage rates. That union now regards many of the specific compensation details of its contract as proprietary information. As such, the union will no longer provide the entire contract to the Coast Guard and thus, the Coast Guard can no longer make public a transparent source as the basis for its annual target compensation projections. Due to the methodology issues cited by pilots and industry as well as the lack of availability of reliable and transparent union contracts for benchmark setting purposes, we are establishing a new standard using publicly available information to set the benchmark compensation used in each ratemaking.

Our new methodology sets pilotage rates for the 2016 shipping season only. We will review and adjust rates each subsequent year. We are also amending the regulations to provide for future multi-year rates that would apply for five years unless an interim adjustment is necessary. We would set base rates in a full ratemaking, and review those rates each year to make sure they continue to promote safe, efficient, and reliable pilotage. If the base rate previously set is not satisfactory for that upcoming year, we would either adjust it or open a new full ratemaking. By law, a full ratemaking must be completed at least once every five years.[1] Multi-year rates allow pilots and industry to make longer range financial plans.

In 2014, the Coast Guard's Great Lakes Pilotage Advisory Committee (GLPAC)[2] recommended substantial changes to address stakeholder issues with the 1995 methodology and adjust ratemaking procedures in light of the union's position regarding the confidentiality of its contracts. We have built the new ratemaking methodology around the GLPAC recommendations, a ''bridge hour'' study completed in 2013, and numerous past public comments identifying distortions created by the 1995 methodology. The new methodology also addresses issues raised by *St. Lawrence Seaway Pilots Association, Inc., et al.* v. *U.S. Coast Guard*,[3] a lawsuit in which the three district pilot associations successfully challenged the 2014 ratemaking final rule.

In Part IV of this final rule, we describe our new methodology which is consistent with the methodology we proposed in the NPRM. It follows a series of steps that are structured similarly to the steps found in the 1995 methodology. Step 1 reviews and recognizes each association's audited expenses. Step 2 projects each association's future operating expenses, adjusting for inflation or deflation. Step 3 projects the number of pilots required to meet each district's peak pilotage demand, with consideration given to the

[1] 46 U.S.C. 9303(f).

[2] GLPAC is a Federal advisory committee established by Congress (*see* 46 U.S.C. 9307) and operating under the Federal Advisory Committee Act, 5 U.S.C. Appendix 2.

[3] 85 F.Supp.3d 197 (D.D.C. 2015).

actual time it takes a pilot to complete each assignment. Step 4 sets target pilot compensation using a compensation benchmark. Step 5 projects each association's return on investment by adding the operating expenses from Step 2 and the total target pilot compensation from Step 4, and multiplying the result by the preceding year's average annual rate of return for new issues of high grade corporate securities. Step 6 calculates each association's revenue needs by adding the operating expenses from Step 2, the total target pilot compensation from Step 4, and the projected return on investment from Step 5. Step 7 calculates initial base rates based on the preceding steps. Step 8 adjusts the Step 7 initial rates, if necessary and reasonable to do so for supportable circumstances, and sets final rates.

This final rule makes several changes from our notice of proposed rulemaking (NPRM). First, the NPRM proposed splitting a particularly long pilotage assignment on the St. Lawrence River into two more manageable segments by creating a new pilot change point. At the request of both pilots and industry, we are not making this change in this final rule. Instead, we will defer any action until we can further assess where the new change point can best be located, and until pilot staffing can be increased to handle the larger number of assignments that shorter pilot transits will cause. Second, in response to public comments, we increased our projection for 2016 target pilot compensation, reduced our pilotage association revenue projection for 2016 (based on our review of 2014 revenue audits and 2015 vessel traffic data), and increased the number of pilots we expect to be available for service in 2016. Third, in response to public comments we increased from 5 to 9 the number of shipping seasons included in our multi-year historical vessel traffic calculations, which we use to estimate future traffic.

In Part V of this preamble, the Coast Guard uses the new methodology to calculate base rates for the 2016 shipping season, as follows:

Step 1 of the new methodology accepts our independent accountant's final findings on each association's 2013 expenses.

Step 2 projects 2016 operating expenses and adjusts them for inflation, using actual inflation data for 2014 and 2015 and the Federal Reserve target inflation rate as a proxy for actual 2016 inflation.

Step 3 finds that, based on figures from the 2007–2015 shipping seasons, 54 pilots are required to fulfill pilotage demand, up from the 36 pilots we authorized for 2015. Based on association projections, we expect 37 pilots to be available in 2016, 48 at the beginning of 2017, and the balance to be added later in 2017.

Step 4 sets each pilot's target compensation at $326,114, with a total target compensation of $12,066,225 for the 37 pilots. We set these targets after identifying 2013 Canadian Great Lakes Pilotage Authority (GLPA) compensation, with adjustments for currency exchange and inflation, as the best benchmark for our 2016 rates.

Steps 5 and 6 calculate each association's return on investment and needed revenue.

Step 7 calculates initial base rates.

Finally, Step 8 affirms the Step 7 rates without adjustment, but also authorizes a temporary surcharge totaling $1,650,000, to cover the anticipated costs of hiring additional pilots and necessary training for new and current pilots.

This rule is not economically significant under Executive Order 12866. It affects 36 U.S. Great Lakes pilots, 3 pilot associations, and the owners and operators of an average of 126 vessels that transit the Great Lakes on an average 396 visits to various ports annually. We estimate that the new rates will result in shippers paying pilot associations $1,865,025, or roughly 12 percent more in 2016 than we estimate they did in 2015. We estimate that the authorized temporary surcharge will add $1,650,000 in costs, for a total 2016 cost increase of $3,515,025 over 2015. Because we must review and if necessary adjust rates each year, we analyze these as single year costs and do not annualize them over 10 years. This rule does not affect the Coast Guard's budget or increase Federal spending. We summarize our regulatory analyses in Part VII.

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I. Abbreviations

APA American Pilots Association
BLS U.S. Bureau of Labor Statistics
CAD Canadian dollar
CFR Code of Federal Regulations
CPA Certified public accountant
CPI–U Consumer Price Index
DHS Department of Homeland Security
FR Federal Register
GLP Great Lakes Pilotage
GLPA Canadian Great Lakes Pilotage Authority
GLPAC Great Lakes Pilotage Advisory Committee
GLPMS Great Lakes Electronic Pilot Management System
NAICS North American Industry Classification System
NPRM Notice of proposed rulemaking
NTSB National Transportation Safety Board
OMB Office of Management and Budget
Pub. L. Public Law
RA Regulatory analysis
RegNeg Regulatory negotiated rulemaking
SANS Ship Arrival Notification System
§ Section symbol
The Act Great Lakes Pilotage Act of 1960
U.S.C. United States Code
USD U.S. dollar

II. Basis and Purpose

The legal basis of this rulemaking is the Great Lakes Pilotage Act of 1960 (''the Act''),[4] which requires U.S. vessels operating ''on register'' [5] and foreign vessels to use U.S. or Canadian registered pilots while transiting the U.S. waters of the St. Lawrence Seaway and the Great Lakes system.[6] For the U.S. registered Great Lakes pilots (''pilots''), the Act requires the Secretary to ''prescribe by regulation rates and charges for pilotage services, giving consideration to the public interest and the costs of providing the services.'' [7] We limit the allowable costs of providing this service by ensuring that all allowable expenses are necessary and reasonable for providing pilotage services on the Great Lakes. We believe the public is best served by a safe, efficient, and reliable pilotage service. The goal of our methodology and billing scheme is to generate sufficient revenue for the pilots to provide the service we require. The Act requires that rates be established or reviewed and adjusted each year, not later than March 1. The Act requires that base rates be

[4] Pub. L. 86–555, 74 Stat. 259, as amended; currently codified as 46 U.S.C. Chapter 93.

[5] ''On register'' means that the vessel's certificate of documentation has been endorsed with a registry endorsement, and therefore, may be employed in foreign trade or trade with Guam, American Samoa, Wake, Midway, or Kingman Reef. 46 U.S.C. 12105, 46 CFR 67.17.

[6] 46 U.S.C. 9302(a)(1).

[7] *See* 46 U.S.C. 9303(f) for all of the Act's pilotage ratemaking requirements discussed in this paragraph.

established by a full ratemaking at least once every 5 years, and in years when base rates are not established, they must be reviewed and, if necessary, adjusted. The Secretary has delegated authority under the Act to the Coast Guard.[8]

The purpose of this rule is to change our annual Great Lakes pilotage ratemaking methodology, set new rates using that methodology, and authorize a temporary hiring and training surcharge.

III. Background

We published the notice of proposed rulemaking (NPRM) for this rulemaking on September 10, 2015, and in response to a request we extended the NPRM's initial 60-day comment period by 30 days.[9] A total of 90 days were available for public comment, encompassing September 10, 2015 through December 9, 2015. We also held a public meeting on September 17, 2015, in Romulus, MI.

This rule directly affects the pilots, their three pilotage associations, and the owners and operators of Great Lakes vessels engaged in foreign trade on U.S. Great Lakes waters. It does not affect U.S. and Canadian ''lakers,'' which account for most commercial shipping on the Great Lakes.[10] It indirectly affects shipping agents who act on behalf of the owners and operators, Great Lakes ports, port workers, and businesses that import or export goods on affected vessels (''shippers''). We refer to pilots and pilot associations as ''pilots,'' and vessel owners and operators, shipping agents, ports, port workers, and shippers collectively as ''industry.''

We divide the U.S. waters of the Great Lakes and the St. Lawrence Seaway (''the Great Lakes system,'' or ''the system'') into three pilotage districts, each containing two or three areas. We certify a private association to operate a pool of pilots in each district. We set rates that each association may charge vessel owners and operators, but we do not control the actual compensation each pilot receives. The actual compensation is a function of vessel traffic in the system and is determined by each association, which has its own business structure and compensation system.

District One comprises areas 1 and 2, the U.S. waters of the St. Lawrence River and Lake Ontario. District Two comprises areas 4 and 5, the U.S. waters of Lake Erie, the Detroit River, Lake St. Clair, and the St. Clair River. District Three comprises areas 6, 7, and 8, the U.S. waters of the St. Mary's River, Sault Ste. Marie Locks, and Lakes Huron, Michigan, and Superior. Because only Canadian pilots serve area 3, Canada's Welland Canal, we do not set rates for that area. Pursuant to the Act, the President has designated Areas 1, 5, and 7 as waters in which a vessel must fully engage a pilot to navigate the vessel at all times. The President left Areas 2, 4, 6, and 8 undesignated. In undesignated waters the Act requires only that a vessel have a pilot ''on board and available to direct the navigation of the vessel at the discretion of and subject to the customary authority of the master.''[11]

The Act requires us to review rates and adjust them, if necessary, by March 1 of each year, employing a ''full ratemaking . . . at least once every 5 years,'' and an annual review and adjustment in the intervening years.[12] The 1995 methodology for a full ratemaking every 5 years appeared in 46 CFR part 404, appendix A, and the methodology for annual review and adjustment appeared in part 404, appendix C. Appendix B contained definitions and formulas applicable to both methodologies. We have not used the appendix C methodology since the 2011 ratemaking, and instead we have conducted a full appendix A ratemaking each year.

IV. Discussion of Ratemaking Methodology Changes

We adopt the methodology changes proposed in the NPRM, and a thorough discussion of the methodology is available in that document.[13] The following discussion focuses on the new methodology's principle features and any changes made from the NPRM to this final rule. In the NPRM, we also proposed to amend § 401.450 to add a pilot change point at Iroquois Lock but, based on public comments discussed elsewhere in this preamble, we decided not to finalize the proposed addition.

Reasons for changing the methodology. This rule changes the ratemaking methodology that has been in effect since 1995 and, using the new methodology, sets pilotage rates for 2016. We changed the methodology for two reasons.

First, for at least 15 years both pilots and industry have identified certain methodology issues that, they assert, perpetuate systemic inaccuracies in the ratemaking calculations. The pilots say these inaccuracies led to annual revenue shortfalls that impede their ability to provide safe, efficient, and reliable pilotage service. Pilotage associations believed those distortions resulted in low rates. They also believed that actual association revenue chronically fell short of the revenue targets that, under the 1995 methodology, we projected based on anecdotal industry information. The Director of Great Lakes Pilotage has reviewed his data for 2005 through 2014 and estimates that, over this period, the three pilotage associations cumulatively fell short of revenue projections by $20 million. As a result, the pilotage associations could not provide sufficient compensation to attract and retain qualified pilots, leading to pilot shortages and associated traffic delays. In turn, these shortages meant that each pilot had to carry an excessive workload and forego needed rest and training.

The pilotage associations also said the revenue shortfalls left them unable to maintain and update association infrastructure or provide the essential training and professional development opportunities recommended by the American Pilots Association (APA). For their part, industry commenters believed that pilot shortages jeopardized the safety of their vessels, and meant that the pilots could not provide efficient or reliable service, particularly at the beginning and end of shipping seasons when peak vessel traffic and frequent bad weather often delay vessel movement.

Second, the 1995 methodology used a detailed breakdown of union compensation for merchant marine masters and mates, as the benchmark for setting registered pilotage rates. Only one union's contract has ever been available to the Coast Guard for this purpose. That union now regards many of the specific compensation details of its contract as proprietary information. The union will not provide the entire contract to the Coast Guard and thus, the Coast Guard cannot use the existing methodology and make public a transparent source for our target pilot compensation figure. Therefore, we are adopting a new method for determining which publicly available compensation information best serves as a benchmark for this year's target compensation. That benchmark could change from one ratemaking to the next, as circumstances change.

Advisory committee recommendations. In 2009 we solicited and received public comments to better understand stakeholder perceptions of the 1995 methodology,[14] and referred

[8] DHS Delegation No. 0170.1, para. II (92.f).

[9] NPRM at 80 FR 54484, comment period extension at 80 FR 69179 (November 9, 2015).

[10] 46 U.S.C. 9302. A ''laker'' is a commercial cargo vessel especially designed for and generally limited to use on the Great Lakes.

[11] 46 U.S.C. 9302(a)(1)(B).

[12] 46 U.S.C. 9303(f).

[13] The NPRM's discussion begins at 80 FR 54486, col. 2.

[14] 74 FR 35838 (July 21, 2009).

those comments to GLPAC, the stakeholder group that advises us on Great Lakes pilotage matters.[15] Ever since, we have worked closely with GLPAC to improve the methodology.

We built the new methodology around a set of recommendations GLPAC made at its public meetings in July 2014.[16] We give GLPAC recommendations significant weight because the Act requires any GLPAC recommendation to be endorsed by at least all but one of GLPAC's seven members.[17] Moreover, with the exception of one member with a background in finance or accounting who is nominated unanimously by the other members, GLPAC's members are evenly divided between pilot and industry representatives, and therefore we consider any recommendation to represent a consensus of pilot and industry members. The Act does not authorize GLPAC positions for any foreign vessel owners and operators or their Canadian agents. However, we believe GLPAC's industry representatives' interests are sufficiently aligned with, and therefore representative of the interests of, affected foreign vessel owners. These stakeholders also consistently attend GLPAC meetings and raise their concerns for GLPAC's full consideration during each meeting's public comment period.

Timing of new rates and future ratemakings. The new pilotage rates will apply from the anticipated opening of the 2016 shipping season, which is a change from the union contract-based August 1 date we used in the 1995 methodology.

The new rates apply only for the 2016 shipping season. We will review and adjust rates as appropriate in the subsequent years. This will allow all stakeholders to gain familiarity with the new methodology and evaluate its ability to set more accurate rates. However, we are amending the regulations to authorize multi-year rates that would apply for five years. We would set base rates in a full ratemaking, and review those rates each year to make sure they continue to promote safe, efficient, and reliable pilotage. If they do not do so satisfactorily, we would either adjust them or open a new full ratemaking. Multi-year rates allow both pilots and industry to make longer range financial plans.

Changes to specific sections.

46 CFR 401.405, 401.407, and 401.410. These sections contained pilotage rate tables and additional charges. Under the 1995 methodology, most designated-water rates applied to specific transits, for example $2,637 for the transit on Lake Erie between Toledo and Southeast Shoal. However, most undesignated-water rates were hourly, for example $934 for 6 hours of pilotage service on Lake Erie. This mixed approach complicated the otherwise simple transaction of paying for a pilot's service. Instead, as we proposed in the NPRM, new § 401.405 replaces old §§ 401.407 and 401.410 and sets hourly rates for specified portions of the Great Lakes. This aligns with GLPAC's 2014 recommendation, by a 5–1 vote, that all rates be hourly.[18] It simplifies billing, and recognizes that each hour that a vessel uses a pilot draws down on a limited pool of available pilots. The rates differ between the NPRM and the final rule because of changes in the number of pilots expected to be working in 2016, based on the latest projections we have received from the pilotage associations. Further, we increased the historic time period for calculating pilotage demand from the 4 years proposed in the NPRM to 9 years in the final rule, as discussed later in this preamble.

46 CFR 401.420 and 401.428. We amend § 401.420 (charges for a vessel's canceling, delaying, or interrupting pilotage service) and § 401.428 (charges for picking up or discharging a pilot other than at a pilot change point designated in § 401.450) to base those charges on the applicable new hourly rates.

We specify that billing under § 401.420 precludes any additional pilotage charge for the time in question. We discard § 401.428's old per diem allowance for a pilot who is picked up or discharged at a point other than a designated change point. Instead, if the pilot is kept aboard for the convenience of or at the request of the ship, the pilot's association can bill the vessel at hourly rates for the extra time involved, plus reasonable travel costs. If the pilot is kept aboard for circumstances outside of the ship's control, for example because a pilot boat is out of service, the association can bill the vessel only for reasonable travel costs. Both sections define ''reasonable travel costs'' as covering travel to and from the pilot's base.

Finally, these sections allow pilotage associations to charge for delays caused by weather, traffic and ice in the colder and busier months at the beginning and end of shipping seasons. All these amendments are the same as those we proposed in the NPRM.

46 CFR 403.120. As we proposed, we remove this section, concerning notes to financial reports, because these notes are not needed under our current financial reporting system.

46 CFR 403.300. Accurate rates depend on accurate expense and revenue information for each pilotage association. In the past, we had difficulty validating the accuracy of this information, because some associations did not use a uniform financial reporting system. This section now requires each association to use the current Coast Guard-approved and provided financial reporting system to certify their financial data annually. These changes are the same as those we proposed in the NPRM. We continue to require an annual audit prepared by an independent certified public accountant.

46 CFR 403.400. As we proposed to do, we remove language suggesting that pilot transaction records must be submitted on paper. Electronic reporting will become available in the near future, making paper reporting under our current transaction reporting optional but not mandatory.

46 CFR 404.1. We remove redundant language summarizing each section in part 404, state that the goal of part 404 is to maximize the transparency and simplicity of our ratemaking, and state that rates must promote safe, efficient, and reliable pilotage service. We continue to require annual association expense audits, but now we also require annual revenue audits, as GLPAC recommended in July 2014.[19] We first used revenue audits in 2015 and expect them to promote transparency and better alignment between our revenue projections and actual revenue. We also provide for a full ratemaking to establish base pilotage rates at least once every 5 years, with annual rate reviews in the interim years and rate adjustments if changed circumstances warrant them.

[15] GLPAC is established by statute and operates under the Federal Advisory Committee Act. *See* footnote 1.

[16] *See* full transcript in our docket and also available at *http://www.facadatabase.gov.* Under 46 U.S.C. 9307(d)(1), the Coast Guard ''shall, whenever practicable, consult with the Committee before taking any significant action relating to Great Lakes pilotage.''

[17] All of the Act's provisions relating to GLPAC appear in 46 U.S.C. 9307.

[18] Transcript, ''United States Coast Guard—Great Lakes Pilotage Advisory Committee—Thursday, July 24, 2014'' (7/24/2014), p. 16. Discussion of this change, referred to by GLPAC members as ''re-baselining'' of rates, begins on July 23, 2014. *See* Transcript (7/23/2014), ''United States Coast Guard—Great Lakes Pilotage Advisory Committee—Wednesday, July 23, 2014,'' p. 277. Discussion resumes: Transcript, ''United States Coast Guard—Great Lakes Pilotage Advisory Committee—Thursday, July 24, 2014'' (7/24/2014), p. 5.

[19] Transcript (7/23/2014), p. 180.

All these amendments are the same as those we proposed in the NPRM.

46 CFR 404.2. This section formerly appeared as § 404.5. We amend the section so that, instead of using union contract mariner benefit cost data, we state that we will recognize all association-paid pilot benefits, including medical and pension benefits and profit sharing, as appropriate components of a pilot's compensation. These changes are the same as those we proposed in the NPRM.

46 CFR 404.100. This section formerly appeared as § 404.10. We replace the redundant ratemaking overview that section provided with new general rules for setting base rates and reviewing or adjusting them in interim years. We provide for multi-year rates, as GLPAC recommended in July 2014.[20] These rates apply for 5 years, but we will review them each year to make sure they continue to promote safe, efficient, and reliable pilotage service. If we think we must adjust them to meet that goal, we would use one of two methods to do so. First, we could apply an automatic annual adjustment provided for in the previous full ratemaking in anticipation of economic trends over the multi-year term. Alternatively, we could base the adjustment on changes in the Bureau of Labor Statistics (BLS) (Consumer Price Index (CPI–U). If neither method adequately met the need for adjustment, we would open a new full ratemaking. These amendments are the same as those we proposed in the NPRM.

Ratemaking methodology. We replace the 1995 appendix A methodology with new §§ 404.101 through 404.108, and eliminate old appendix B (definitions and formulas) and appendix C (annual rate reviews, which we have not conducted since 2011) because they are no longer needed. These are the same changes we proposed in the NPRM, with some exceptions as noted in the discussion. Figure 1 compares the old and new regulatory structure.

FIGURE 1—TREATMENT OF APPENDIX A STEPS IN 46 CFR 404.101–404.108

Appendix A step	Change	Comments
1	Omit	Unnecessary summary of substeps.
1.A	Omit	Move substance to § 404.2.
1.B	Reword and move	Move substance to new § 404.101 and move Step 1.B's second sentence to § 404.2.
1.C	Reword and move	Add similar language to § 404.102.
1.D	Reword and move	Add similar language to § 404.102.
2	Omit	Unnecessary summary of substeps.
2.A	Reword and move	Add similar language to § 404.104.
2.B	Reword and move	Add similar language to § 404.103.
2.C	Reword and move	Add similar language to § 404.104.
3	Omit	Unnecessary summary of substep 3.A.
3.A	Reword and move	Cover substance in § 404.106.
4	Omit	Per recommendation approved by GLPAC.[21]
5		Add similar language to § 404.105.
6	Reword and move	Per recommendation approved by GLPAC.[22] Add similar language to § 404.106.
7, except last sentence of first paragraph	Reword and move	Add similar language to § 404.107.
7, last sentence of first paragraph	Reword and move	Add similar language to § 404.108.

In the discussion that follows, we explain how the new methodology replaces each Step of the 1995 methodology. Our calculations for 2016 rates, using the new methodology, appear in Part VI of this preamble.

46 CFR 404.101—Recognize previous operating expenses. Like old Steps 1.A and 1.B this section describes how we recognize the appropriateness of past pilot association costs, based on independent third party audits.

46 CFR 404.102—Project operating expenses, adjusting for inflation or deflation. Like old Steps 1.C and 1.D this section describes how we calculate an association's projected base non-compensation operating expenses. We will continue to apply a cost change factor for inflation or deflation to any recognized expense that could be affected by inflation or deflation, based on BLS Midwest Region CPI–U changes.

This rule sets base rates for 2016, using pilot association expense data from 2013, the last full year for which reported and audited financial information is available. Under old Step 1.C, we would have applied a cost change factor for only the next year, 2014, and would have ignored the inflation that took place in 2015 and 2016. In 2014, GLPAC recommended that we take the subsequent years into account,[23] and we now do so in the new methodology using BLS data, or if not available, then the target inflation rate set by the Federal Reserve as a proxy for the Midwest Region CPI–U.

46 CFR 404.103—Determine number of pilots needed. Like old Step 2.B this projects how many pilots the system will need in the next shipping season. To project the total demand for pilot time, we broaden the old ''bridge hour'' standard to include not only the hours a pilot is on the vessel's bridge, but also the total average time a pilot spends in preparing for and returning from each pilot assignment, along with a ''recuperative rest'' allowance of up to 10 days per month in non-peak months, as GLPAC recommended.[24] Moreover, instead of projecting future demand based on anecdotal information about future shipping trends, we use a multi-year average of actual past data, as GLPAC recommended in 2014.[25] We also follow GLPAC's recommendation [26] that we project demand based on the number of pilots that would have been needed to provide safe, efficient and reliable pilot service per district. Our NPRM proposed including data from the previous five shipping seasons in the

[20] Transcript (7/23/2014), p. 274. Discussion begins on p. 258.

[21] Transcript (7/23/2014), p. 255. Discussion begins on p. 237.

[22] Transcript (7/23/2014), p. 255. Discussion begins on p. 237.

[23] Transcript (7/23/2014), p. 200. Discussion begins on p. 192.

[24] Transcript (7/24/2014), p. 240. Discussion begins on p. 225. The seven non-peak months run from mid-April to mid-November. Recuperative rest would be available ''up to'' 10 days per month during those months, dependent on actual traffic patterns and the need to provide reliable pilotage service. Our goal is to regulate the pilotage system to maximize the likelihood of providing the full 10 days per month.

[25] Transcript (7/23/2014), p. 258. Discussion begins on p. 255.

[26] Transcript (7/23/2014), p. 237. Discussion begins on p. 201.

multi-year average but excluding outlier years that could distort demand trends, substituting available and reliable data from other years. However, in response to public comments, we have decided to omit the outlier-exclusion provision, and also to lengthen the multi-year period to include data for the 9 full shipping seasons between 2007 through 2015, using data from our current financial reporting system, which provides a good source of valid data. We instituted that system in 2006, but we exclude 2006 because we have only partial season data for that year. By 2017, we will have reliable data from 10 full shipping seasons (2007–2016), and thereafter each year we will use data from the most recent 10 seasons.

If the result of our demand calculation is a fractional number, we will round it up or down, as seems most reasonable, to the next whole pilot.

In addition to projecting the number of pilots needed, we will also project the number of pilots we expect to be actually working full-time and fully compensated during the first shipping season of the new base period. This becomes an important factor in the next section.

46 CFR 404.104—Determine target pilot compensation. Like old Steps 2.A and 2.C this determines individual and overall target compensation, but it changes the old methodology in three respects.

First, instead of different target figures for undesignated and designated waters, we will set a single figure for each district. Second, instead of using union contracts as our compensation benchmark, we will use the most appropriate reliable benchmark that is available to the public. Third, instead of basing target compensation on each district's pilot needs, we will base them on the number of pilots we expect to be available for full-time and fully-compensated work in the upcoming season, since actual pilotage availability may be lower than needed, as is the case under the current methodology.

46 CFR 404.105—Project return on investment. At GLPAC's recommendation [27] we deleted old Steps 5 and 6, used to calculate a pilotage association's return on investment, as needless steps that only complicated but did not change the final projection. We continue to project the return on investment by adding operating expenses and target pilot compensation, and multiplying the sum by the preceding year's average annual rate of return for new high grade corporate securities.

46 CFR 404.106—Project needed revenue. As just stated, we have deleted the Step 6 procedure for projecting each association's needed revenue for the next year. Instead, we calculate base revenue needs by adding projected base operating expenses, total base target pilot compensation, and base return on investment. This is a more transparent procedure and it adequately projects an association's needed revenue.

46 CFR 404.107—Initially calculate base rates. Like old Step 7, we initially set base rates for the designated and undesignated waters of each district, subject to modification or finalization under § 404.108. We do this by dividing projected needed revenue by available and reliable data for actual hours worked by pilots in each district's designated and undesignated waters during the multi-year base period. In some years and in some districts, this could produce significantly higher rates for designated waters than for undesignated waters, creating unnecessary financial risk to the pilot associations by focusing revenue generation too narrowly in designated waters at the expense of undesignated waters. To ensure safe, efficient, and reliable pilotage in all Great Lakes waters whether designated or undesignated, we therefore will apply a ratio to adjust the balance between rates, limiting the designated-water rate to no more than twice the undesignated-water rate while maintaining the same overall revenue. This will correct the undesirable rate imbalance, without affecting the total needed revenue projected for each district.

46 CFR 404.108—Review and finalize rates. Like another provision of old Step 7, we will adjust the initial base rates for supportable circumstances, which include factors defined in current U.S.-Canadian agreements relating to Great Lakes pilotage.[28] To ensure we do not abuse this discretion, we state that any modification to the initial rates must be necessary and reasonable, as well as justified by supportable circumstances. We will continue to submit proposed adjustments for public comment, which may result in our abandoning or modifying the adjustment. Any adjustment will be subject to § 404.107's limitation on the disparity between rates for designated and undesignated waters.

V. Discussion of NPRM Comments

In the following discussion, in general the numbers used to refer to specific commenters are keyed to their docket numbers. Many late comments were docketed as a single entry, so those comments are labeled with the letter codes AA through AW (those codes appear next to each separate comment in the single docketed entry). So, commenter 4's submission is docketed as USCG–2015–0497–0004. We received submissions from 75 commenters on the NPRM, from the individuals and groups (or their associations or representatives) shown in Figure 2. In addition, we received emails from two shipping agents and a shipper, all requesting clarification (which we supplied by email) as to how rates would be charged under the new regulations, and a request on behalf of shipping agents for an extension of the comment period, which we granted.

FIGURE 2—COMMENT SOURCES

Commenter's affiliation	Docket Nos.
Current GLPAC member	AF.
Elected officials	AG, AR, AU.
Environmental advocacy groups	AD.
Former GLPAC member	27.
Great Lakes pilot association presidents as a group ("the presidents' group").	52, 62.
Great Lakes pilot association presidents as individuals	54, 56, 59, 60, AC.
Import or export shippers	10, 12, 15, 16, 19, 20, 21, 22, 23, 25, 28, 30, 31, 32, 33, 41, 47, 50, 51.
International ports and shippers coalition	Two comments submitted: 53, AW.

[27] Transcript (7/23/2014), p. 255. Discussion begins on p. 237.

[28] The current Memorandum of Understanding can be viewed at *http://www.uscg.mil/hq/cg5/cg552/docs/2013%20MOU%20English.PDF.*

FIGURE 2—COMMENT SOURCES—Continued

Commenter's affiliation	Docket Nos.
National associations of pilots	38, 49.
Pilot from outside the Great Lakes system	AH.
Pilots or former pilots	29, 44, 45, 46; a single submission from 4 pilots, 55A, 55B, 55C, and 55D; 57, 58, 61, AA, AE, AL, AO, AP, AQ, AS, AT, AV.
Pilot service providers (for example accountants for the pilotage associations).	34, 43, AK, AN.
Ports and port workers (for example stevedores)	4, 5, 8, 9, 18, 24, 26, 35, 36, 37, 39, 42, 48, AB, AM.
Regional businessman	AJ.
State pilot association outside the Great Lakes system	40.
Vessel operator	6.

Of the 75 comments we received, 14, or almost one-fifth, of the comments were submitted after the published date for closing the comment period, December 9, 2015.[29] After careful consideration, we have chosen to consider them because of the importance and complexity in changes of this particular rulemaking.

Our responses to some of the comments indicate that the action we are taking this year is subject to possible future modification. For example, using Canadian Great Lakes pilot compensation, suitably adjusted to recognize differences in the benefits the U.S. and Canadian systems provide is considered as the benchmark for setting our own target compensation. In each of those cases, we invite the public to submit formal comments on next year's NPRM, and the Director of Great Lakes Pilotage will accept comments and data informally submitted at any time (see **FOR FURTHER INFORMATION CONTACT**).

The following discussion treats, in alphabetical order, these major topics raised by the comments, and concludes with a discussion of miscellaneous comments.

- Adequacy of pilot compensation
- Compensation benchmark
- Director's ratemaking discretion
- Effective date and implementation date of the rule
- Factors included in pilot compensation
- General reaction to the NPRM
- Goals of the ratemaking process
- Hourly rates
- Impact of rates on pilotage safety, efficiency, and reliability
- Information provided by commenters
- New pilot change point
- Pilot hiring and retention
- Pilot responsibility for cost control
- Projecting the number of pilots needed
- Recognized pilotage association costs
- Recuperative rest for pilots
- Reliability and completeness of Coast Guard data
- ''Runaway costs''
- Stakeholder representation in the ratemaking process
- Traffic projections and use of multi-year historical traffic data
- Miscellaneous issues

Adequacy of pilot compensation. The ports and shippers coalition, in comment 53, responded to our question asking if our target pilot compensation was adequate, or if we should adopt the higher targets proposed by the pilots. They answered that our proposed target improperly depended on the use of the Canadian benchmark, implying that all the proposed targets were too high. They also said a Canadian benchmark is inappropriate because Canadian pilots perform more of their work in designated waters than do U.S. pilots, who perform a higher proportion of their work in ''less demanding'' undesignated waters.

Response: We thank the coalition for its input. After considering all the comments, we continue to find the Canadian GLPA benchmark to be appropriate. We do not agree with the coalition's implication that our proposed compensation targets were too high, and that use of Canadian GLPA pilots' compensation is inappropriate.

As we stated in the NPRM, GLPA pilots provide service that is almost identical to the service provided by U.S. Great Lakes pilots. With the exception of Area 3, the GLPA provides pilotage service in the same waters as U.S. pilots do; in fact, whether a GLPA or U.S. pilot is assigned to a vessel is a matter of chance. We rejected the Laurentian pilots as not being a comparable benchmark because the Laurentian pilots work exclusively in designated waters. Consequently, we do not think it is accurate to say that ''Canadian'' pilots perform a higher percentage of their work on designated waters. The difference between the amount of work performed in designated waters by U.S. pilots and GLPA pilots is minimal.

Moreover, we do not agree with the argument that the noted disparities between work done by Canadian and U.S. pilots warrant comparing U.S. compensation to a different system, such as the BLS data suggested by the ports and shippers association. As we stated in the NPRM, BLS data for masters, mates, and pilots cover officers whose duties and responsibilities are substantially different from those of a U.S. Great Lakes pilot. Unlike a Great Lakes pilot, most officers covered by the BLS data are not directly responsible for the safe navigation of vessels of any tonnage through designated waters. Further, the BLS data is skewed downward by the higher number of lower wage mates, who do not hold the same licenses as masters and pilots. Between U.S. and Canadian pilots, however, the impact on overall pilotage services is the same wherever a pilot happens to be. If a pilot is assigned to undesignated waters, the pilot is still ''at work'' or ''on assignment'' and therefore is unavailable for assignment to designated waters, and the pilot helps to ensure the safe navigation of the vessel regardless of the circumstances or waters navigated. Finally, a Canadian pilot's compensation is in no way dependent on the proportion of the pilot's assignments in designated or undesignated waters. Canadian pilots earn an annual salary that is affected neither by that proportion, nor, indeed, by varying traffic demand. Also, all U.S. registered pilots are qualified to provide service in both designated and undesignated waters within each pilotage district. Therefore, we do not think the distinction between assignments in designated or undesignated waters should have any bearing on a pilot's compensation.

Compensation benchmark. After analyzing a number of possible benchmarks for setting target compensation for the pilots, our NPRM proposed adopting the compensation of

[29] This figure does not include 35 comments received on Dec. 22, 2015, but dated before the comment period closed and apparently lost in transmission.

Canadian Great Lakes pilots as our benchmark for this year's target compensation.[30] It also proposed setting the compensation for U.S. pilots by adjusting the Canadian compensation figure upward by 10 percent, in recognition of the different benefits available to Canadian pilots and their U.S. counterparts. We received several comments on the benchmark and benchmark adjustment, some indicating it is insufficient and some indicating it is overly generous.

A national pilot association said, in comment 38, that for too long the Coast Guard set pilot rates too low, in an effort only to keep pilotage costs as low as possible. The association generally welcomed our proposals but found that the proposed adjustment of 10 percent to the Canadian benchmark insufficiently accounts for differences between the two nations' compensation systems, and that it is skewed because the Canadian compensation data include compensation for both fully qualified and apprentice pilots. It provided data in support of a benchmark adjustment of almost 37 percent, not 10 percent. The group of pilotage association presidents, in comment 52, supported these comments and also recommended using other U.S. pilots' compensation figures, which are generally significantly higher, as the benchmark.

Response: As we explained in our NPRM,[31] we did consider using other compensation schemes, including those for U.S. masters, mates, and pilots, as our compensation benchmark, and we believe our selection of Canadian Great Lakes pilot compensation as the best benchmark for 2016 was correct.

We appreciate the data the association reported in support of the almost 37 percent benchmark adjustment it suggested, but we do not find it persuasive. The commenter admits that determining this differential is subjective and they primarily base this value on the cost of living difference between Detroit, MI and Windsor, ON, which are not necessarily indicative of the regional economy. We do not think the 15 percent COLA differentiator between Detroit, MI and Windsor, ON is relevant—a single comparison point should not be utilized to establish the regional comparison. Also, the U.S. cost of the Masters, Mates, and Pilots Membership Health Plan is only a single option of healthcare and benefit packages that are also not necessarily indicative of the regional economy.

We will re-evaluate the association's data before we propose new rates for 2017, at which time the public will be able to comment on their validity and whether the impact of so large an adjustment would require a phase-in, in the interest of avoiding too large a one-year rate increase. We find that our new target compensation for 2016 is fair and justifiable.

The ports and shippers coalition, in comment 53, responded to our question asking if the 10 percent adjustment to Canadian Great Lakes pilotage data is appropriate. The coalition said it is not, and that it abuses our discretion, because it ignores the facts that Canadian pilots perform more work in designated waters than U.S. pilots do, and that they are government employees. The coalition doubted that the Canadian data require adjustment once ''comparability adjustments are rationally applied.'' They also said it is ''legally and logically defective'' to set rates by ''working backward'' from individual pilot compensation figures to set future target compensation. Instead, they said we should simply cover reasonable pilotage costs, including the costs of providing reasonable pilot compensation.

Response: We acknowledge that this adjustment is an approximation based on several statements made at the 2014 GLPAC meetings,[32] which were not challenged at the time by industry representatives. We have based our benchmark adjustment on the best data available when we published the NPRM, and believe the new methodology covers reasonable pilotage costs and pilot compensation. Our NPRM specifically requested public comment on the appropriateness of a 10 percent adjustment.[33] Two commenters provided arguments or data in support of a higher adjustment, but we have not been able to validate the data or analyze the commenters' arguments within the time frame statutorily allowed for this year's ratemaking. We are taking them under advisement for possible action in the 2017 ratemaking. As we explain previously in this discussion, we do not think the proportion of pilot time spent in designated or undesignated waters has any bearing on the comparability of U.S. and Canadian Great Lakes pilot compensation.

The same coalition, in comment 53, responded to our question asking if Canadian Great Lakes pilot compensation provides the best benchmark for U.S. rates, and if there is a better benchmark. They said that the systemic differences between the Canadian and U.S. systems make the Canadian compensation an unreliable benchmark, and that, instead, we should continue basing our target compensation on the compensation of first mates on U.S.-flagged Great Lakes vessels. They said the union contract information we previously used is still available, as the union's late comment on the 2014 rulemaking showed, and as the court in our recent litigation said we should have used. They also suggested we could use data from the Marine Engineers Beneficial Association or from the Bureau of Labor Statistics.

Response: For reasons described above, we disagree the with ports and shippers association that the work of Canadian pilots is so different from U.S. pilots that Canadian salaries do not constitute an appropriate benchmark. We continue to view the Canadian pilots' compensation, suitably adjusted, as the best benchmark for our target compensation because, unlike U.S. pilots in other pilotage systems, pilots in the two Great Lakes systems perform comparable work under comparable conditions. We agree the union provided contract data for the 2014 rulemaking, but the limited data provided are not sufficient or publicly available and therefore, we cannot continue to depend on them reliably in the future. Furthermore, the Marine Engineers Beneficial Association and Bureau of Labor Statistics data could be generally informative, but we do not think they reflect comparable compensation for comparable work in comparable conditions that we believe is the best standard for selecting a benchmark. Under that standard, we continue to think the Canadian Great Lakes pilotage salaries provide the best benchmark available for this year's rate setting.

Director's ratemaking discretion. In comment 38, a national pilot association said that our proposed 46 CFR 404.104 gives the Great Lakes Pilotage Director unfettered discretion to determine the adequacy of pilot compensation, which is bad public policy and leaves the door open to abuse by future Directors. The association recommended that, instead, the Coast Guard should add a regulatory requirement for setting target compensation at a comparable level for comparable work in a comparable community.

Response: We understand and respect the association's concern, but because all Coast Guard exercises of ratemaking discretion are subject to notice-and-comment rulemaking procedures, any exercise of our discretion must first be

[30] See 80 FR at 54497.

[31] NPRM, 80 FR 54484 at 54497, col. 2.

[32] Transcript, GLPAC meeting, July 24, 2014, pp. 43–45.

[33] NPRM, 80 FR 54484 at 54498, col. 3.

proposed for public comment, which can highlight any perceived abuse of that discretion on our part. We believe that we will always need to exercise our discretion to determine what is comparable, but we will ensure that any modification made to the initial rates is necessary and reasonable, as well as justified by supportable circumstances.

The ports and shippers coalition, in comment 53, said we should eliminate the Director's ability to make reasonable and necessary discretionary adjustments to initially-calculated rates, for supportable circumstances such as carrying out pilotage agreements between the U.S. and Canada. The coalition said this discretion is open to abuse and that the exercise of this discretion in the past has been widely criticized by stakeholders. The coalition also said that, if we retain the discretionary tool, we should expressly limit its use to circumstances in which we fully take into account the adjustment's economic impact and the public interest.

Response: We acknowledge the past criticism of our use of discretionary adjustments, and as the coalition pointed out, at least in the recent past those adjustments have benefitted the pilots. However, in general we made those adjustments to offset the unintended consequences of our old ratemaking methodology. Even with adjustments, it is clear that pilot revenue still has consistently fallen below our targets. Had we not made those adjustments, we think it likely that the pilot associations would have had even more trouble attracting and retaining pilots, and maintaining infrastructure, than they did.

No matter how well crafted a permanent rate setting methodology may be, it is bound to produce inequities when it cannot accommodate unforeseeable circumstances. We think it is essential for the methodology to include a tool that provides the ability to respond to those circumstances. We note that any proposed adjustment is fully made public in that year's NPRM, and we will carefully consider any public comments raising concerns as to a proposed adjustment's necessity and reasonableness.

We also note that we are required, by various statutes and Executive Orders, to consider the economic impact of any rulemaking, and statutorily required to consider the public interest as well as the costs of providing the services in setting rates. Therefore, although we agree with the coalition that our discretion should be exercised subject to these controls, we do not think additional regulatory language is necessary at this time.

The association presidents, as a group in their comment 52, said the Director enjoys overly broad discretion to adjust compensation benchmarks, and that a good standard for the exercise of that discretion would be ''comparable compensation for comparable work in a comparable community.''

Response: For the reasons we have stated, we disagree that this discretion is overly broad. We generally agree with the association presidents that comparable compensation for comparable work in a comparable community is a good standard, but we do not believe explicitly stating this standard is necessary to achieve that result. We believe the regulatory language in this rule and public comment input will ensure that any modification made to the initial rates is necessary and reasonable, as well as justified by supportable circumstances.

One association president in comment 56 said proposed § 404.108 is unclear as to how agreements with Canada could have any impact in adjusting U.S. rates, when despite comparable language over the past two decades, no such agreement has ever led to an adjustment.

Response: Promoting alignment with international agreements is just one of the supportable circumstances that could warrant an adjustment where it is found appropriate. Our 2016 rates move us closer to the ''comparable'' compensation called for by the current U.S.-Canada agreement.[34] Past agreements called for ''identical'' rates, which could never be achieved given the acknowledged differences in how the two pilotage systems operate, and therefore in the past it was not possible to use our discretion in a way that could make our rates ''identical'' to Canadian rates.

Effective date and implementation date of the rule. The national pilots association that submitted comment 49 said the proposed 2016 rates should be implemented at the beginning of the 2016 shipping season. The pilots association said there is no longer any reason for an August 1 implementation date, which was linked to the benchmark union contracts we no longer use in setting rates. The association also said that in the past the Coast Guard has violated its statutory requirement to ''establish new pilotage rates by March 1 of each year.''[35] The presidents of the pilots associations, as a group and in their comment 52, supported these comments.

Response: We agree that there is no longer any reason to implement rates on August 1, rather than as close as possible to the start of the annual shipping season. However, we do not agree with the association's interpretation of the statutory requirement, which Congress added in 2006.[36] The statute requires that we establish new pilotage rates by March 1. It is our understanding that the 2006 legislation was intended only to change the Coast Guard's previous practice of reviewing rates at irregular intervals, and to mandate annual reviews. We note that by 2006 we had set August 1 implementation dates on several occasions, and that therefore had Congress sought a rate *implementation* date of March 1, Congress would have included explicit language to that effect in the statute.

The purpose of making a rule ''effective'' by March 1, but deferring rate implementation until August 1, was to give all parties clear and settled information, at the beginning of the shipping season, on a significant cost factor that would change as the season progressed. We no longer see any reason to defer rate implementation until August and believe an implementation date at the beginning of the shipping season is reasonable under the new methodology. This ensures that the new rates can be charged from the beginning of the shipping season, which usually occurs in late March.

The ports and shippers coalition, in comment 53, responded to our question as to when new rates should be implemented; they said they should have 90 days in accordance with common marine industry contract requirements.

Response: We believe that 30 days is a reasonable amount of time to prepare for the new rates. In light of our inability to continue using the union contracts which went into effect each August 1, and given the statutory requirement that rate adjustments must be set by March 1 of each year, henceforth we will implement new rates with the opening of the shipping season or as soon thereafter as possible.

Factors included in pilot compensation. The ports and shippers coalition, in comment 53, said that, as independent contractors, pilots should bear some of the risk of unforeseeable events like accidents or weather conditions that cause vessel delays and detention, and therefore should not be

[34] Memorandum of Understanding, Great Lakes Pilotage Between the United States Coast Guard and the Great Lakes Pilotage Authority, Sept. 19, 2013, para. 7.

[35] 46 U.S.C. 9303(f).

[36] Public Law 109–241, sec. 302.

compensated at full base rates for time lost to those conditions.

Response: We generally disagree. Pilot time is lost when it is wasted due to delay or detention, and the pilot associations cannot make up the resulting lost revenue. Pilot compensation would suffer as a result if they were paid at less than full rates, and the lost revenue could degrade the ability of pilot associations to bear the cost of the investments needed to support pilotage service whenever it is needed. However, we note that pilots do bear some risk under the cancellation and delay provisions in § 401.420; we discuss comments on those provisions later in this preamble.

A pilot said in comment 55B that compensation for delay and detention should be paid not only when the event is for the vessel's convenience, but for any event that is not caused by the pilot.

Response: Pilots and pilot associations are responsible for their own actions and the maintenance of necessary infrastructure, and cannot bill for any delay or detention reasonably attributable to them. Industry is responsible for other delays including those not necessarily for the convenience of the vessel.[37]

Pilot 55B ''applaud[ed]'' our recognition that compensation data should be adjusted for inflation.

Response: We agree that such adjustments are essential components of fair compensation under current conditions.

With respect to the ''compensation for interruption'' provisions of proposed § 401.420(c), the president of an association in comment 56 asked what constitutes a traffic interruption, and what difference it makes whether such an interruption occurs during May through November or at other times.

Response: Section 401.420(c) deals with interruptions to a vessel's transit that are caused by ice, weather, or traffic disruptions from May through November. We proposed relieving vessels of liability for such disruptions during those months because they are during the non-peak traffic period. We agree that a pilot's time is lost to these disruptions regardless of when they take place, but outside of peak traffic periods the impact of that loss of time on the overall force of available pilots is less, and the resultant vessel stoppage reduces the need for pilot assignments. Conversely, the opportunity costs for pilot time during the peak traffic periods at the beginning and end of the shipping season, which also coincide with most winter weather conditions, are much higher. We note that this comment was the only one to raise this particular point, and we will continue to consider the issue carefully in the future.

General reaction to the NPRM. Pilot service provider in comment 34 said that the pilots have ''suffered over the past two decades because of a ratemaking mechanism that fails, chronically and often by a very wide margin, to produce the revenue that it promises.'' The commenter said the whole pilotage system has suffered as a result, and that the ''shipping industry should THANK the Coast Guard, not criticize it, for finally recognizing that the system is broken, and taking the initiative to fix it'' (emphasis in the original).

Response: We agree with the commenter and have proposed regulatory amendments precisely to address the concerns the commenter raised.

A pilot service provider in comment 43 pointed out that we ''lost a critical tool in arriving at an equitable payscale'' when benchmark union contracts became unavailable for the Coast Guard's use in setting rates. The commenter ''commend[ed]'' our ''pro-active work'' in devising a new procedure for ensuring fairer pilot compensation.

Response: While we agree that our longstanding use of benchmark union contracts was an accepted and generally useful tool for setting rates, we think the new procedure is more flexible and will work as well, or better, over time. The new methodology relies on publicly available and current data to set a benchmark for each ratemaking, and allows us to choose the most appropriate benchmarks available.

The national pilot association in comment 49 expressed support for our proposals because they responsibly meet our obligation to ''encourage investment in pilots, infrastructure, and training while helping to ensure safe, efficient, and reliable'' pilotage service.

Response: We think the investments cited by the association are indispensable components of providing safe, efficient, and reliable pilotage service, and we think this rule promotes those investments in the interests of all system stakeholders.

The ports and shippers coalition, in comment AW, said the Coast Guard may have been overly ambitious in proposing both the methodology changes *and* new rates based on those changes in the same rulemaking. It said our proposed changes are flawed and need to be refined. It therefore proposed extending the 2015 rates into 2016, which it said should ''be generously remunerative'' to the pilots.

Response: We disagree with these assertions and believe that the new rates are necessary and reasonable for safe, efficient, and reliable pilotage on the Great Lakes. Failure to implement these important revisions will continue to delay the addition of pilots and the investment in important infrastructure to sustain the pilotage system on the Great Lakes.

The president of a pilot association in comment 59 said our methodology and rates were fair and should be adopted.

Response: For all the reasons we cite elsewhere in this discussion, we agree with the commenter.

The presidents of the pilot associations, as a group and in their comment 62, pointed out that the Coast Guard has full discretion to set pilotage rates, and that the Coast Guard must ensure first and foremost that the rates we set promote the safety, efficiency, and reliability of the regulated entities' operations. They said that the shippers coalition was mistaken in its assertion that we failed to give sufficient attention to their ''public interest.'' The presidents pointed out that our statutory mandate is to consider, without limitation, the ''public interest,'' and shared our interpretation of that interest as extending to that of every American or any foreign person who might be affected by our ratemakings. The presidents said that, had Congress intended to limit the ''public interest'' to the interest of persons directly affected by the Great Lakes system, it knew how to do so by speaking in plain terms.

Response: We agree that the economic interests of Great Lakes ports and shippers must be considered as one of many interests in the context of our statutory mandate to consider the public interest in general.

The ports and shippers coalition, in comment AW, said that industry's interests are ''congruent'' with those of the pilots, that our rates should fairly compensate the pilots without imposing unreasonable costs that can harm the viability of Great Lakes shipping, and that our proposals do not meet these goals.

Response: We think the coalition correctly identifies the goals of our

[37] Except as specified in 46 CFR 401.420(c) with respect to ice, weather, and traffic delays. An example of a chargeable delay would be caused by the unavailability of staffing at a dock, such that the vessel cannot dock. This delay would not be ''for the convenience of the vessel,'' but nevertheless would needlessly consume scarce pilotage resources. This aligns with vessel chartering contracts that require payment regardless of the actual status of the vessel during the charter agreement.

ratemaking, and we agree that the interests of all the principal stakeholders are ''congruent,'' but we do not agree that we have failed to achieve the best possible balance between these two rate setting goals. We believe the rate in this rule balances fair compensation for pilots while taking into account the necessary costs of providing shipping services.

Hourly rates. The ports and shippers coalition, in comment 53, opposed our proposed use of hourly charges for all routes, instead of the current point-to-point charges for routes in designated waters. They said that fixed charges for those routes provide cost certainty for shippers and impose discipline on pilots, whose financial interests are served by navigating those routes in the most expeditious manner.

Response: We acknowledge that fixed routes provide greater cost certainty for shippers, but this certainty needs to be balanced against interests of safety because the speed with which a pilot transits a route should be dictated by circumstances. We do not think the risk of an overly expeditious passage should be borne by the environmental safety of Great Lakes waters and by public safety, both of which could be jeopardized as a result. We also think this risk is contrary to the interest of shippers in the safe passage of their vessels.

A pilot in comment 55B and a president of a pilot association in comment 54 said that the hourly compensation standard should recognize that not all hours are billable.

Response: We believe the current rate adequately addresses hours that are appropriate for billing. It is unclear to us from these comments what non-billable hours these commenters had in mind and how we should take them into account in setting rates. We invite them, and others, to provide us with additional information for consideration in 2017 and beyond.

Impact of rates on pilotage safety, efficiency, and reliability. An environmental group in comment AD said the low compensation and poor working conditions under which U.S. Great Lakes pilots work puts safety at risk, and therefore, threatens the Great Lakes environment, and that Congress clearly intended our ratemaking to take the public interest in such matters into account. A regional businessman in comment AJ also said that the regional economy depends on safe shipping and environmental protection of the Lakes.

Response: We agree with both commenters. A vessel's safety is clearly a concern for pilots, vessel operators, shippers, and the general public. Ultimately, we think an unsafe system could provide shippers with incentives to shift their operations to other ports or other transportation modes.

A pilot service provider in comment 43 cited studies [38] showing that ''more than 80 percent of maritime property damage claims and more than 90 percent of collisions'' are due to the irregularity of master or pilot work schedules and the pressure of the responsibility these individuals bear, leading to insomnia and ''near continuous fatigue,'' ''often accompanied by intense stress and punctuated by large sudden shots of adrenalin.'' A pilot association president in comment 60 made very similar comments.

Response: As is true for all transportation modes, chronic fatigue from irregular work schedules and insufficient rest periods can cumulatively increase the safety risks for maritime transportation. These increased risks are in no one's interest, and they also lead to pilotage service that is neither efficient nor reliable. The recuperative rest period is intended to ensure that, in addition to required rest periods between assignments, pilots have sufficient off-assignment time during the season so they can avoid chronic fatigue.

The national pilot association in comment 49 noted that shipping agents for foreign vessel operators have long demanded Coast Guard action to address the ''untenable situation'' in which pilot shortages and aging infrastructure can lead to expensive vessel movement delays. The association said that only in 2015 did the Coast Guard begin rectifying the severe pilot association revenue shortfall over the past decade, and commended the Coast Guard for continuing this rectification with our proposals for 2016. A pilot service provider in comment AN made similar comments.

Response: We agree and think the pilot association correctly understands that increased pilot compensation is warranted if it leads to a pilotage system that is safer, more efficient, and more reliable for all stakeholders.

Information provided by commenters. A pilot in comment 55C said that his association's staffing will be decreased by upcoming retirements, and that the association has aging infrastructure that must be modernized.

Response: We acknowledge this information, which advises us of conditions that threaten this association's ability to provide safe, efficient, and reliable pilotage. Our changes in this rule were intended to mitigate such conditions.

The president of a pilot association in comment 54 said his district will have significant unforeseen dispatch costs in 2016.

Response: We agree that this commenter will incur dispatching costs from the beginning of the 2016 shipping season, including the acquisition of necessary facilities and technology. Previously, this service was provided by Canada. Data for those costs were not available in sufficient detail to be included in the 2016 rate but can be evaluated for reimbursement in a future rulemaking.

A U.S. pilot from a different system in comment AH said that pilots in his association earn over $459,000 a year and also receive medical and pension benefits, and that compensation for Great Lakes pilots contributes to hiring and retention difficulty.

Response: We thank the commenter for this information. We find that our use of Canadian Great Lakes pilot compensation, suitably adjusted, is the best benchmark for our target compensation because pilots in the two systems perform comparable work under comparable conditions. We have no publicly available information on how rates are set in other U.S. pilotage systems, and therefore, we cannot analyze whether the figure cited by this commenter would make a better benchmark for our system, though we invite public input and data on this topic for our consideration in future ratemakings. We agree that low compensation in comparison with that of U.S. pilots elsewhere probably contributes to hiring and retention problems. Our rule is intended to mitigate that disparity.

New pilot change point. Our NPRM proposed adding a new pilot change point to break up overly long pilotage assignments in the St. Lawrence Seaway. The national pilot association in comment 38 said we should not add the new change point until pilot associations reach full staffing in 2017, because until then an additional change point would only require additional workload and travel time for an already over-stretched pilot work force. The ports and shippers coalition, in comment 53, said that this rulemaking is not the right venue to discuss a new pilot change point, which deserves more discussion and a thorough investigation.

Response: We agree that this issue requires more study and the addition of more pilots to handle the increased number of pilotage legs created by the

[38] According to the commenter, this quotation appears in J.A. Barber's *Naval Ship Handler's Guide.*

new change point. Therefore we are taking no action on it this year.

Pilot hiring and retention. Elected officials in comments AG and AI said that hiring and retaining highly trained and qualified pilots is essential for protecting the Great Lakes environment. Official AR said that our rate increases would help hire and retain the high quality pilots who protect the safety of the Great Lakes environment and hence the reliability of Great Lakes transportation.

Response: We agree, and our new rates are intended to promote such hiring and retention.

The national pilot association in comment 38 said our proposed rates do not adequately cover the cost of adding new pilots, over the potential 5-year lifespan of the new rates.

Response: The commenter may be correct and we would adjust the rates should we find the rates need adjustment over the 5-year period. For 2016 hiring costs, we are authorizing a temporary surcharge to fund new applicant pilots, and if warranted we could authorize similar surcharges in future years, if necessary.

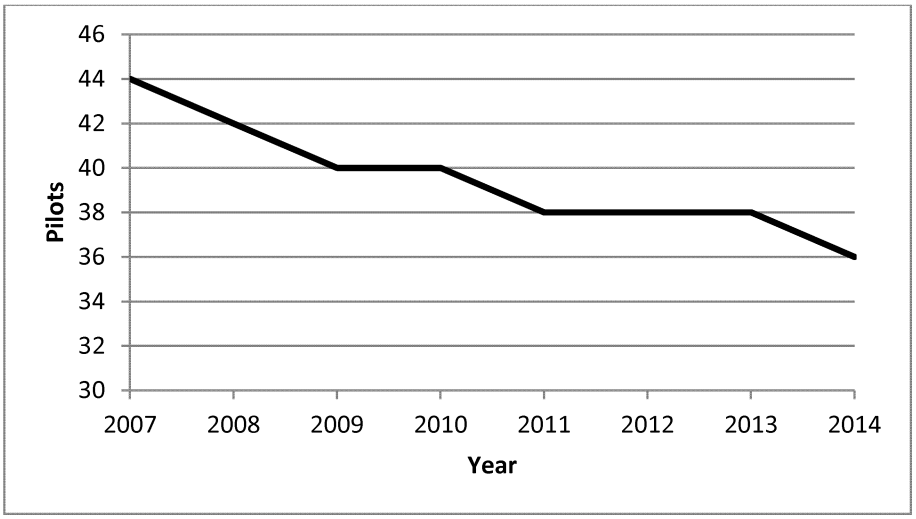
Pilots in comments 29, 44, 45, 46, and AV, as well as a pilot service provider in comment AK and a port commenter in comment AM, all said that low pay and high workload are principal causes of pilot hiring and retention problems. In addition, a pilot in comment 29 compared U.S. Great Lakes pilot compensation and working conditions unfavorably to those available to their Canadian counterparts, and said our proposals would ''go a long way'' toward easing hiring and retention problems, improving pilot training, and helping shore up pilotage association infrastructure. A pilot in comment 57 said that a well-compensated pilot will not want to leave his position, and that a well-compensated pilot in another stable environment will not want to take a position in the unstable Great Lakes pilotage system. A pilot in comment 58 said that in the past, target pilot compensation has been set ''abysmal[ly]'' and in no way has kept up with compensation for other pilots or other mariners. A pilot in comment 61 said that the inability of the pilotage associations to hire and retain qualified pilots is putting the safety, efficiency, and reliability of pilotage service at significant risk, and said industry should understand this as well as the pilots do. He said the pilots had long warned industry that pilot shortages would inevitably result in the sort of delays that industry had to endure at the beginning of the difficult 2014 shipping season. A pilot in comment AA said that in 2010 he withdrew his application to become a Great Lakes pilot because the risk was not worth it, and that he knows several colleagues who did not apply, for the same reason. He said that if industry is not willing to pay increased rates they may lose pilotage service altogether. Pilots in comments 55A and 55C made similar comments. A pilot association president in comment AC said his association has difficulty hiring replacements for several pilots who have left the system or retired, or who plan to do so in the near future; similar comments came from pilots in comments 55D, AE, and AV. President AC also said that pilotage costs are a small fraction of overall shipping costs in the Great Lakes. A pilot in comment AL said he retired from the system because of low compensation and lack of time off, and withdrew his application for another opening when it became clear those conditions had not improved. A pilot in comment AO said he never would have become a Great Lakes pilot had he foreseen the low compensation and long hours involved, and that as a hiring agent found that these issues kept many highly qualified mariners from signing on as pilots. A pilot in comment AP said 10 pilots in his association took early retirement to escape the low compensation and long hours their positions entailed. A pilot in comment AQ said his job as a pilot was a ''great fit'' but that he resigned because of low pay and long hours. Pilots in comments AS and AT welcomed the surcharge that the NPRM proposed to help defray pilot association hiring and training costs.

Response: These comments echo comments that pilots and others have made to us, and to GLPAC, repeatedly over many years. Such comments highlight the pilot hiring and retention challenges this rule addresses to ensure that our rates provide the pilotage associations with sufficient revenue to attract and retain pilots, improve pilot working conditions, and shore up the infrastructure on which the pilots rely.

The ports and shippers coalition, in comment 53, said that our analysis of pilot attraction and retention issues is not founded on tested data, and that we should explore alternative ways to attract and retain good pilots, such as up-front apprentice bonuses and living standard supports. The coalition said we should look into each departed recruit's or pilot's reasons for leaving the system. In comment AW, the same coalition said that we have produced no data establishing that there are difficulties in attracting and retaining qualified pilots, or that there is a relationship between those difficulties and low pilotage rates. The coalition said we should produce enough data to convince the public that there is a problem, that it is caused by low rates, and that it is not affected by other unrelated factors.

Response: Our analysis shows that over the last 11 years, 31 pilots have left the Great Lakes pilotage associations. Of these 31 pilots, 9 went to other unspecified jobs, 5 went to another system outside the Great Lakes, 5 took mariner positions on board lakers, 1 went back to deep sea shipping, 1 became a training instructor, 1 went to another district, 1 took work with a dredging company, and 8 gave no reported reason for leaving. Figure 3 shows that the number of pilots dropped from 44 in 2007 to 36 in 2014, a net decrease of 22 percent.

Figure 3: Total Pilots 2007-2014



Industry considers pilot understaffing directly responsible for vessel traffic delays. Figure 4 shows our data for delay hours overall and by district between 2007 and 2015. This data is pulled from the Great Lakes Pilotage Management System, an online database shared by USCG and the Canadian GLPA, as well as the pilot associations.

FIGURE 4—GREAT LAKES DELAY HOURS 2007–2015

Year	District 1	District 2	District 3	Total delay hours
2007	1295.97	657.1	1231.99	3185.06
2008	1232.4	679.47	1350.3	3262.17
2009	476.13	546.52	1771.05	2793.7
2010	1096.22	1272.05	1377.53	3745.8
2011	824.41	588.05	1501.02	2913.48
2012	656.5	711.01	1152.09	2519.6
2013	2071.72	1064.31	2829.36	5965.39
2014	2702.35	2439.8	7879.62	13021.77
2015	2532.33	1501.05	383.17	4416.55

Figure 5 shows how much these delays cost, which we calculated by dividing the delay hours shown in Figure 4 by 24 hours and multiplying the result by the average daily vessel operating costs, excluding the cost of pilotage during delays.[39] Delay hours in 2014 included an estimated 7,200 delay hours due to the ice opening that we removed to better represent the trend over the years. The figure shows an overall increasing trend in delay hours and the cost of these hours over the last 9 years.

[39] *''Ship operating costs: Current and future trends''*, Richard Grenier, Moore Stephens LLP, December 2015. $5,191 was used as the daily operating cost as the majority of affected vessels are handy size bulkers.

Figure 5: Operating Cost of Delays 2007-2015

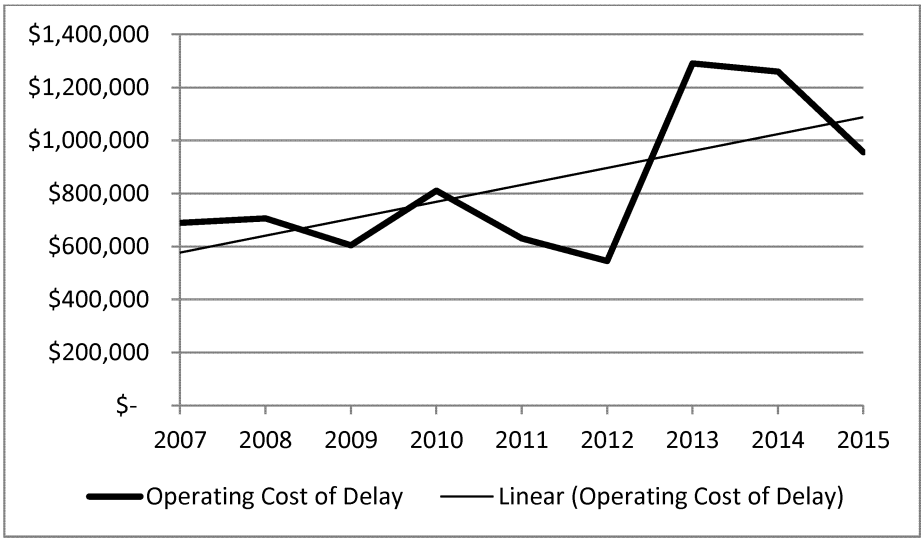
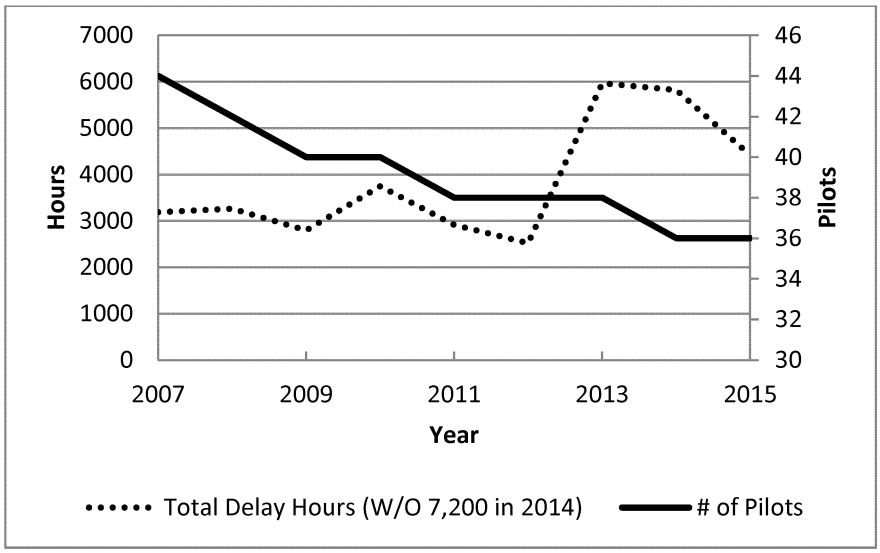


Figure 6 shows that since 2007, the number of available pilots has decreased 22 percent, while delay hours have increased 45 percent. Over this period, delays increased by 2,636 hours, or 329 hours per year, per pilot loss. Other factors contribute to delays, but clearly pilot shortfalls are one important factor.

Figure 6: Total Delay Hours vs. Pilot Strength



Pilot associations say they want to reach full staffing, but cannot do so because of chronic pilot attraction and retention difficulties. We are open to any reasonable proposals for mitigating those difficulties, but the remedies suggested by the coalition may not work and could take longer than the system can sustain in the face of more pilot departures and the inability to replace those pilots. We doubt that the coalition's suggestions would be effectual, given the career-long prospects a recruit or new pilot faces for lower compensation than their counterparts in Canada side or in other U.S. ports. The pilots have emphasized these issues repeatedly at pilotage summits and GLPAC meetings, and we are not aware of evidence that the pilots' emphasis is misplaced. Our preceding figures suggest that increased pilot rates are the best and quickest way to attract and retain more qualified pilots.

Pilot responsibility for cost control. The ports and shippers coalition, in comment 53, said that the Coast Guard encourages inefficiency in the pilotage system, by maintaining three separate pilotage district associations instead of a single association as the Canadians do. It said we do not adequately pressure the pilotage associations to maintain a full staff of pilots, and that each association has an incentive to maintain low staff levels because every pilot on staff can receive higher compensation. It also said we should explore more efficient ways to reduce association overhead. The coalition suggested that pilots should bear some of the risk of unforeseeable events that cause a

vessel's delay or detention, and therefore should not be paid base rates for those events. A pilot association president in comment 54 disagreed, and said that a pilot should be responsible only for events that are outside the pilot's control (we assume the commenter intended to say ''events within the pilot's control'').

Response: We are interested in, and continually explore, efficiencies to keep staffing up and overhead low. We share the coalition's concern regarding understaffing of the pilot associations and our new methodology focuses pilot compensation on those pilots actually expected to be working in a given year, rather than on the target for full staffing. This reduces any incentive an association might have to understaff.

Consolidation of the three districts into one continues to be an option we consider. However, it should be noted that the three-district model predates the Coast Guard's assumption of the system's control almost 50 years ago, and GLPAC's authorizing statute specifies that three of GLPAC's seven members must represent the presidents of the three pilotage districts, which in our view implies that each district will have its own association.[40] Therefore we assume Congress recognizes the existing three-association model and would need to amend the Act to allow us to change that model. We agree with the pilot association president in comment 54 that, contrary to the coalition's suggestion that the pilots absorb some of the risk of unforeseeable events, it makes more sense to allocate risks so that pilots bear the costs only for events that are within their control. This is because there is a limited pool of pilots, and the association cannot simply add pilots or pilot hours to make up for pilot hours lost to delays outside the pilots' control.

Projecting the number of pilots needed. The national pilots association in comment 38 said our NPRM's announced goal of having 50 pilots on hand within the near future is fully justified to keep vessel traffic moving and to avoid the pilot fatigue that the National Transportation Safety Board (NTSB) has said threatens pilotage safety. The association found it ''baffling'' that the same shippers who express concern over traffic delays also criticize the costs of adding the pilots needed to avoid those delays.

Response: This final rule increases the 50-pilot goal we announced in the NPRM to a new goal of 54 pilots, for reasons we will discuss in Part VI of this preamble.[41] This target is set to ensure we achieve our goals of safe, efficient, and reliable pilotage, and we agree that, at least in the near future, these goals can be met only by providing adequate pilot compensation and rest.

The ports and shippers coalition, in comment 53, said the NPRM's proposal that pilot numbers be set high enough to cover peak traffic periods should be revised so that peak demand is used only at the beginning and end of a shipping season, when delays due to pilot shortages are most common, and should rely on alternative tools, such as the use of contract part-time pilots, during the non-peak periods.

Response: Traffic peaks usually are confined to the periods just after the opening and just before the closing of a season, but could occur at other times as well. Setting pilot numbers high enough to accommodate all these peak periods is essential for reducing traffic delays during peak periods, and is also essential if we are to provide the recuperative monthly rest periods recommended by the NTSB in the interests of safety.

We considered using contract or semi-retired pilots as an alternative way to handle traffic peaks. We do not think that is a viable alternative because those pilots are unlikely to possess current and thorough knowledge of local waters. We consider such knowledge essential for safe piloting, especially in the bad weather conditions often experienced during peak periods. This kind of specialized knowledge takes up to 48 months to acquire and cannot be summoned at short notice to address temporary traffic peaks. It is true that other pilotage systems outside the Great Lakes sometimes use part-time or contract pilots, but those systems cover smaller areas in which those pilots more easily can maintain the necessary knowledge without impacting safety. The coalition did not propose other alternatives for our consideration and we have not identified such alternatives. However, we invite the public's input on any alternatives that exist, and would carefully consider using those alternatives in future ratemakings.

The president of a pilot association in comment 56 criticized our proposed basis for target pilot compensation in § 404.104, by which compensation would be set according to the number of pilots actually on hand, instead of the number of pilots needed. He said this would be unfair to the existing pilots, each of whom has to work harder until the association is fully staffed.

Response: We have authorized a temporary surcharge to assist in achieving the goal of hiring and training new pilots and think this is a more transparent tool than setting base rates according to ''pilots needed,'' which as an industry commenter pointed out could provide an incentive for an association to keep pilot strength artificially low.

Recognized pilotage association costs. The national pilots association in comment 38 said that, in proposed 46 CFR 404.2(b)(3) regarding transactions not directly related to providing pilotage services, we should specify that transactions must be related to the provision of ''safe, efficient, and reliable'' pilotage service.

Response: We agree with the motivation behind this suggestion, but we think it unnecessary to add the proposed language. Our proposed regulations make it clear that our goal is safe, efficient, and reliable pilotage, and we recognize only those expenses that are reasonable and necessary for promoting that goal.

The national pilots association in comment 49, supported by the president's group in comment 52, said that our proposed 46 CFR 404.2(b)(6) disallowance for legal fees associated with actions against the U.S. Government and its agents appeared to be in retaliation for the pilots' lawsuit against the Coast Guard for our 2014 ratemaking. The association said our proposal was contrary to past Coast Guard practice, which allowed those fees so long as there was no finding of bad faith on the part of the pilots. The president's group, in comment 52, said disallowing fees is an arbitrary and capricious departure from past Coast Guard practice and an illogical departure from customary practice in other industries. They said the disallowance may have been based on the mistaken assumption that the fees paid to their lawyers were for lobbying expenses.

Response: We disagree. The U.S. Government, through the Coast Guard, is the pilots' regulator, and therefore, it is inappropriate for the Coast Guard routinely to approve any legal costs for actions against the Government or its agents. We note that when court-ordered to do so, as we were as part of the settlement ending the 2014 litigation, we do pay the opposing party's litigation costs. The presidents correctly state that we do not recognize lobbying expenses for ratemaking purposes.

[40] *See* 46 U.S.C. 9307(b)(2)(A).

[41] The 50-pilot figure appears in the NPRM at p. 54496, Table 10. In Part VI of this preamble, we discuss our reasons for increasing the number of pilots needed in our presentation of calculations made in accordance with new § 404.103. The 54-pilot figure appears in that presentation as Figure 19.

The ports and shippers coalition, in comment 53, opposed our recognizing the pilot associations' cost of membership in the American Pilots Association (APA), because they did not think it necessary for safe, efficient, and reliable Great Lakes pilotage.

Response: We acknowledge that until recently we did not view APA membership as ''necessary,'' but we have since come to realize that the APA provides its members with information about best practices and pilot training, which we think is essential if pilots are to provide safe, efficient, and reliable service on the Great Lakes. The APA engages in lobbying, but we have determined that lobbying represents 15 percent of APA activity and we deduct that amount from the recognized expenses accordingly.

Recuperative rest for pilots. The national pilots association in comment 49 said it was pleased with our proposal that pilots be allowed up to 10 days' recuperative rest per month in non-peak months, and hoped foreign vessel operators will understand the proposal's value to them. The presidents' group, in comment 52, also supported the proposal as essential for safety and for pilot attraction and retention.

Response: A pilot's chronic fatigue from irregular work schedules and insufficient rest can cumulatively increase the safety risks for maritime transportation. Such increases in risk serve no one's interest, and they also lead to pilotage service that is neither efficient nor reliable. Our recuperative rest requirement is intended to ensure that, in addition to required rest periods between assignments, pilots have sufficient off-assignment time during the season so they can avoid chronic fatigue.

The president of an association in comment 54 said that each district's peak demand period is different from the others, and therefore, it makes sense to allow the recuperative rest periods between each district's double-pilotage seasons.

Response: Double pilotage is used mostly at the beginning and end of a shipping season, and our recuperative rest periods will take place between those times. Peak periods do vary from one district to another, but these variances are so small that, at this time, we see no reason to set different periods for each district.

The president of an association in comment 56 said we should amend § 404.1 by specifying that, instead of ensuring fair compensation for trained and rested pilots, we would ensure a sufficient number of well-qualified and well-rested pilots to cover peak demand, and have 10 days' recuperative rest each month during non-peak months. He also asked us to clarify how our proposal would deal with the possibility that such rest could be modified to ensure continuous pilot availability.

Response: We do not think we need to specify 10 days' recuperative rest each month during non-peak months. Though this is one of the goals of this rule, we believe it is necessary to review the results of the 2016 shipping season under our new staffing model and methodology before we establish the duration and timing of the recuperative rest periods in regulation. With respect to rest periods being modified to provide for continuous pilot availability, we require rested pilots to be available for assignment and we are increasing pilot strength to be able to fulfill both our recuperative rest guidelines and our requirements for rested pilots to be available for assignment.

Reliability and completeness of Coast Guard data. The ports and shippers coalition, in comment 53, said that, unlike other rate-setting agencies, the Coast Guard cannot assure the rate-payers that the financial data it uses are reliably reported or audited. It said our revenue projections failed to take vessel weighting factors and differences between specific routes into account, and that these should affect our rates. In comment AW, the coalition said that the pilot association financial data in the record are ''rudimentary and inadequate'' and provide insufficient information for comparing actual and projected revenue. It said that until we construct an ''adequate data platform,'' our ratemakings ''will continue to be random, subjective, and arbitrary.'' It also said our record lacks data or analysis to show that, in setting new rates, we have adequately considered the needs of safety, the public interest, and relevant costs. It said our current accounting systems fail to provide sufficient data on which we can reach informed and defensible decisions on whether current rates produce adequate revenues.

Response: We disagree with the coalition's characterization of the data. As amended in this rule, § 403.300 requires pilotage associations to use a Coast Guard-approved financial reporting system that will provide us with more accurate financial data, which should facilitate accurate Coast Guard audits of that data. We make those audits publicly available in the dockets for our annual rate reviews. Over the past few years we have gone to great lengths to ensure that the associations follow uniform reporting procedures and use the reporting software that we provide. Moreover, we have worked closely with our contract auditor to ensure uniform auditing procedures, and in recent years we have begun annual pilot association revenue audits to help validate the billings they report. However, there is no statutory or regulatory requirement that the Coast Guard use the same financial reporting or auditing methods used by other rate-setters for other purposes.

We see potential merit in the suggestion that our ratemaking take weighting factors into account, and we take it under advisement. Given the high variability from year to year in the numbers and types of vessels requiring pilotage, we have never considered weighting factors in projecting revenue projections of the rate. We do not consider specific routes in the rulemaking, only the needed revenue for the pilot associations to provide safe, efficient and reliable service. Our comparison of needed revenue from year to year reflects the overall cost of the pilotage system; some routes may see higher increases than others depending on factors including weather, traffic, cargo, and destination.

We do not agree that pilot financial data are unreliable. The data provided in the docket readily allows comparisons between projected and actual revenues. Our independent accounting firm conducts extensive reviews of pilot association financial information, to enable us to determine the necessity and reasonableness of association expenses. We recently began auditing association revenues, and these audits validate association claims that they generate the target revenues set in previous ratemakings. We have also posted financial information (including information requested by the coalition) on our public Web site. We believe we have provided extensive evidence in support of our analysis of association expenses and revenues, and that we have fully explained how our new methodology and this year's rate increases support safe, efficient and reliable pilotage. We have also added analyses of the potential economic impact of the ratemaking to support our methodology and rate increases.

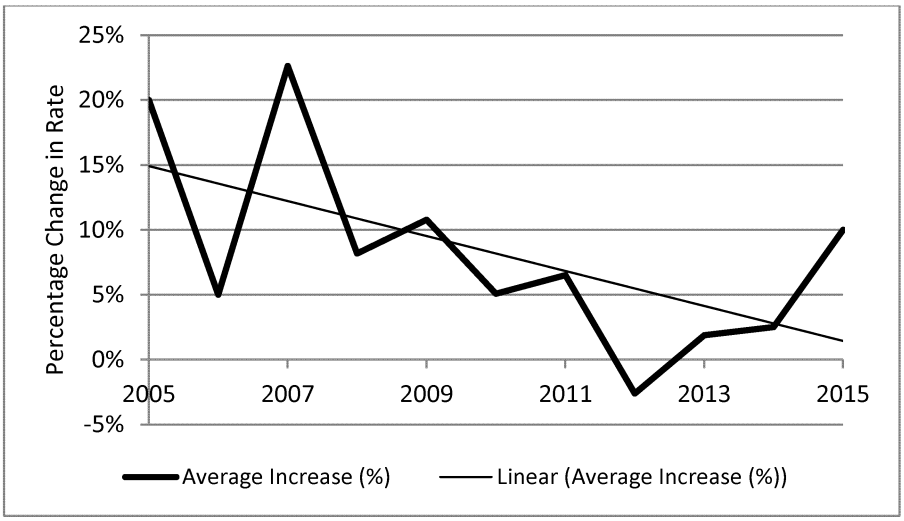
Finally, our responses to the comments we received on the NPRM demonstrate that we have considered safety needs, relevant costs, and the public interest.

''Runaway costs.'' Representatives of shippers in comments 10, 12, 15, 16, 19, 20, 21, 22, 25, 28, 41, 47, 50, and 51 said pilotage rates now represent ''runaway costs.'' One of these commenters said that we had increased pilotage rates by

114 percent over the past decade, while simultaneously reducing the number of available pilots. Another said these cost increases exceeded Consumer Price Index cost increases (23 percent) over the same period.

Response: We acknowledge that the rates have increased since 2005, but by 90 percent, not 114 percent. Of that increase, 21.4 percent reflects consumer price index increases.[42] A 20 percent increase occurred over a decade ago (2005) and a 22.6 percent increase took place in 2007. Before 2005, there were only two increases in the rate: 11 percent in 1997 and 3 percent in 2001. Figure 7 below displays the average increase or decrease in the rates for each year from 2005 to 2015. It shows an overall decreasing trend in the average rate increases over the last 11 years.

Figure 7: Great Lakes Pilot Rate Average Increase or Decrease 2005-2015



Many of the shippers cited the adverse impact the proposed rate increases could have on their businesses or on the regional economy in general. One said that higher pilotage costs could decrease the attractiveness of Great Lakes shipping relative to other transportation modes, and that ultimately reduced shipping demand will result in lower pilotage revenues, forcing further rate increases and creating a cost spiral. Some of the shippers said that, as a regulator, the Coast Guard should protect the interests of the consumer from cost increases that are unaccompanied by system efficiencies and that threaten the health of the Great Lakes economy. The ports and shippers coalition, in comment 53, made similar statements and said that we erred in saying the proposed rates would not hurt small businesses, because we overlooked the ripple effect of rate increases on the small shippers and their suppliers who are indirectly affected by those increases.

Response: We recognize the importance of commerce on the Great Lakes and believe the rule achieves the best long-term balance of interests. We analyzed the potential impact of the increase in pilot rates on Great Lakes shipping. To determine the elasticity of demand[43] for commodities shipped on the Great Lakes we reviewed a 2004 report by Martin and Associates,[44] analyzing two principal commodities moving through the Great Lakes, import steel and export grain. These commodities accounted for 74 percent of the U.S. Great Lakes cargo on vessels subject to pilotage requirements. The study found that the demand for shipping grain and steel was highly inelastic (insensitive) with respect to pilotage rates.[45]

In addition, the overall impact of an increase in pilotage costs should be small and have little effect on a shipper's transportation route and mode preferences. A 2011 study by Martin and Associates[46] examined the economic impacts of the Great Lakes and St. Lawrence Seaway system. The study showed that in 2010, the system's ports handled 322.1 million metric tons of cargo, generating $33.6 billion in direct business revenue. Cargo moving on the foreign-flagged vessels that are the primary users of mandatory Great Lakes pilotage service accounted for $2.3 billion, or approximately 7 percent of the total revenue. The study also found that U.S. and Canadian Great Lakes pilots generated $91.7 million in direct business revenue. Therefore, pilot revenue accounted for less than 0.3 percent of the total direct revenue generated in the system. Any increase in this small proportion would be distributed over the entire system, thereby diminishing its impact.

We are required by statute to set rates with ''consideration to the public interest and the costs of providing the [pilotage] services.''[47] The statute does not limit the ''public interest'' to that of the Great Lakes region, or to that of any

[42] Average yearly CPI from 2005 and 2015, *http://www.bls.gov/cpi/cpid1512.pdf.*

[43] Elasticity of demand for a product is the percentage change in the demand for a product or service due to a percentage change in the price of that product or service. Demand elasticity is considered inelastic if there is little change in the demand for a product or service as a result of a price change.

[44] ''*Analysis of Great Lakes Pilotage Costs on Great Lakes Shipping and the Potential Impact of Pilotage Rate Increases*'', Martin and Associates, 2004.

[45] The study compared the least cost routing cost for each U.S. inland steel and grain destination by Great Lakes port to the next least cost routing using an alternate coastal port and the baseline Great Lakes pilotage cost. The study found a range of cost savings for 20 Great Lakes ports over coastal ports. These ranges were used to draw the conclusion that Great Lakes shipping of grain and steel are highly inelastic with respect to pilotage charges.

[46] ''*The Economic Impacts of the Great Lakes St. Lawrence Seaway System*'', Martin and Associates, 2011. *http://www.marinedelivers.com/sites/default/files/documents/Econ%20Study%20-%20Full%20Report%20Final.pdf.*

[47] 46 U.S.C. 9303(f).

industry, and we therefore interpret the statutory intent to apply to the entire nation's public interest. This larger interest, of course, includes the public interest in promoting the economic health of all the nation's regions including that of the Great Lakes region. We believe the measures we proposed in our NPRM achieve the proper balance of covering pilotage costs and ensuring safe, efficient, and reliable pilotage in the public interest.

As to the impact of increases on small businesses, we acknowledge the coalition's concern, but the Regulatory Flexibility Act requires consideration only of the direct costs of a regulation on a small entity that is required to comply with the regulation.[48] As previously explained, pilot revenue accounted for less than 0.3 percent of the total direct revenue generated in the Great Lakes and St. Lawrence Seaway system and any increase in this small proportion would be distributed over the entire system, thereby diminishing its impact. It is not clear how this rule could have significant ''ripple effects.''

Also, we think these comments overlook the adverse regional economic impact that lower pilotage rates could have. Lower rates lead to lower revenues, and as we have stated, we think chronic low revenues are responsible for the pilotage system problems that industry says leads to damaging vessel traffic delays. It is those delays that are most likely to weaken the competitiveness of the Great Lakes in the near future, and our rate increases are intended to forestall that impact.

More importantly, however, and as we previously noted, if we fail to implement this methodology and new rates, we believe the pilot associations will not be able to recruit experienced mariners and retain their registered pilots. Without registered pilots, current law would prohibit international vessels from transiting the Great Lakes.[49] This vessel traffic would be forced to use other ports or another mode of transportation, resulting in a negative impact on the regional economy and the economies of Great Lakes ports.

A port commenter in comment 35 said pilotage costs now exceed a vessel's total operational costs, or the cost of loading and unloading vessels.

Response: In 2015 the average daily operating costs (excluding fixed costs) for Great Lakes bulkers and tankers ranged roughly from $5,191 to $7,879.[50] There may be transits for which pilotage costs are more than other operating costs during the time operating on the Great Lakes, but this will rarely be the case because pilotage is only required in the Great Lakes for a portion of most transits. Moreover, all of the vessels for which pilotage is required come from ports outside the Great Lakes-Seaway system, and most of their voyage time is conducted without a pilot's services.

To estimate the impact of U.S. pilotage costs on the foreign vessels affected by the rate adjustment, we used 2012–2014 vessel arrival data from the Coast Guard's Ship Arrival Notification System (SANS) and pilotage billing data from the Great Lakes Electronic Pilot Management System (GLPMS). A random sample of 50 arrivals was taken from SANS data. To estimate the impact of pilotage costs on the costs of an entire trip, we estimated the length of each one way trip. We used the vessel name and the date of the arrival to find the last port of call before entering the Great Lakes system. The date of the departure from this port was used as the start date of the trip. To find the end date of the trip we used GLPMS data to find all the pilotage charges associated with this vessel during this trip in the Great Lakes system. The end date of the one way trip was taken as the last pilotage charge before beginning the trip to exit the system. We estimated the total operating cost by multiplying the number of days for each by the 2015 average daily operating cost and added this to the total pilotage costs from GLPMS for each trip. The total pilotage charges for each trip were updated to the 2015 rates using the average rate increases in the Great Lakes Pilotage Rates 2012–2015 Annual Review and Adjustments final rules.[51] The total updated pilotage charges for each trip were then divided by the total operating cost of the trip. We found that the U.S. pilotage costs could account for up to 17.2 percent[52] of the total operating costs for a voyage. We also estimated the impact of the rate increase in this final rule. We took the same 50 trips and updated the pilotage costs to the proposed 2016 rates. With this rule's rates for 2016, pilotage costs are estimated to account for up to 18.8 percent of total operating costs, or a 1.6 percent increase[53] over the current cost. The total operating costs do not include the fixed costs of the vessels. If these costs are included in the total costs, the pilotage rates as a percentage of total costs would be lower.

A port commenter in comment 42 said our proposed ratemaking methodology is ''decoupled from market realities'' and adds costs without adding productivity or accountability. The commenter said we should set rates to optimize the availability of ''high quality pilots'' with ''minimal impact on vessel schedules and routes,'' and with the lowest possible costs not directly related to pilotage. A pilot association president in comment 56 said that, in fact, pilotage associations are subject to market forces because those forces dictate the success of each association's efforts to attract and retain talent, and because the Coast Guard is required to set rates with consideration to the cost of pilotage service, which itself is subject to market forces.

Response: We agree with the pilot association president in comment 56 that pilotage associations are not ''decoupled'' from market forces, for the reasons the president gave. This rule is intended to promote safe, efficient, and reliable Great Lakes pilotage. Pilot associations have made it clear that they cannot ensure safe pilotage if continued low rates make it impossible to attract and retain high quality pilots, maintain adequate infrastructure, and provide decent working conditions. Shipping interests have made it clear that they will not tolerate delays to vessel schedules, or backups on certain vessel routes, that are attributable to pilot shortages. This rule lays out the vision of a system in which highly capable pilots want to work on the Great Lakes, do so safely, and move traffic efficiently and reliably. We think every stakeholder wants to see that vision realized. However, achieving that level of efficiency and reliability requires a comparable level of compensation to attract and support those pilots.

The presidents' group, in comment 62, said that the ''runaway cost''

[48] The courts have held that the RFA requires an agency to perform a regulatory flexibility analysis of small entity impacts only when a rule directly regulates small entities. See the Small Business Administration's ''A Guide for Government Agencies How to Comply with the Regulatory Flexibility Act,'' May 2012, page 22. *https://www.sba.gov/sites/default/files/rfaguide_0512_0.pdf.*

[49] *See* 46 U.S.C. 9303(f).

[50] *''Ship operating costs: Current and future trends'',* Richard Grenier, Moore Stephens LLP, December 2015. The 2015 weighted average operating cost is estimated at $5,191 for a handysize bulker, $5,771 for a handymax bulker, and $7,879 for a product tanker. We assumed these costs include only the costs of operating (such crew costs, repairs and maintenance, insurance, administration, and dry docking) and do not include any fixed costs of the vessels (such as amortization of vessel construction costs).

[51] The average percentage changes in the rates for 2012–2015, were −2.62%, 1.87%, 2.5%, and 10%, respectively.

[52] For the random sample of 50 arrivals, the average of the pilotage costs as a percentage of the total operating costs was 17.2%. The percentages ranged from a low of 2.1% to a high of 41.2%.

[53] 18.8% of total operating costs in 2016 − 17.2% of total operating costs in 2015 = 1.6% incremental increase of pilotage costs as a percentage of total operating costs.

argument is flawed because much of the costs over the past decade came in 2005, when a delay of many years in promulgating that year's rate increase resulted in a large gap between the pilots' incurring of costs and new rates to cover those costs.

Response: We agree with comment 62's accurate explanation for a large part of the cost increases cited by the ports.

Stakeholder representation in the ratemaking process. A port commenter in comment 42 said our ratemaking process does not give adequate voice to foreign vessel owners or to companies that import or export goods through the Great Lakes.

Response: We do not agree that our process denies foreign interests or U.S. importers and exporters a voice in our ratemaking process. Under both the old and the new processes, we make various calculations to derive tentative rates that we then propose for broad public comment. We analyze and carefully consider the public comments before finalizing rates. That process is open to the ''public'' wherever it resides, and we regularly receive comments from the stakeholders mentioned by this commenter. All stakeholders have the same opportunity to participate in the ratemaking process.

In addition, foreign stakeholders and their representatives generally attend GLPAC meetings as members of the public, and are able to voice their concerns and opinions during those meetings which include discussion of recommendations on the future ratemakings.

Finally, because Great Lakes pilotage is regulated both by the U.S. and Canada, the Coast Guard's Director of Great Lakes Pilotage is in nearly daily contact with his Canadian counterpart, and together they meet regularly with pilots, port representatives, and U.S. and Canadian agents for foreign vessel owners and operators. This, plus the attendance and representation of Canadian stakeholders at GLPAC meetings, ensures that both the Coast Guard and Canadian officials are continually aware of the concerns and views of all pilotage stakeholders, and can coordinate a binational response, if necessary.

The ports and shippers coalition, in comment 53, said that our NPRM gave ''undue weight'' to the GLPAC recommendations on which the NPRM's proposals are based, because GLPAC is no longer representative of all stakeholders, particularly foreign shippers and shipping agents who are not directly represented on the committee, and is now a ''pilot-dominated interest group.'' A current GLPAC member AF, who represents port interests, denies this charge and stated he believes the charge is ''offensive and wrong.''

Response: We disagree with the coalition. Like all Coast Guard committees subject to the Federal Advisory Committee Act, GLPAC membership is carefully vetted by the Coast Guard and the Department of Homeland Security to ensure a fair balance of stakeholder representation.

Moreover, the statute creating GLPAC specifies that six of its seven members must be balanced between pilots on one side and ports, shippers, and vessel operators on the other, which we believe ensures that the pilots will have adequate, but not dominant, representation on the committee.[54] We reiterate that the great weight we give GLPAC recommendations is due in no small part to GLPAC's diverse representation and the statutory requirement that any GLPAC recommendation be approved by at least all but one of its serving members.

As we have already stated, although GLPAC does not include any foreign members, GLPAC's meetings are open to the public, including foreign citizens. As members of the public, Canadian stakeholders, the head of the Canadian Great Lakes pilot authority, members of the coalition, and their representatives all routinely attend and voice their concerns at those meetings.

Traffic projections and use of multi-year historical traffic data. In comment 52, the presidents' group said it is important to note that, when we overestimate the shipping traffic that will take place in the upcoming shipping season, actual pilot compensation falls below the target compensation we project. They supported using a 5-year traffic average to more accurately project future traffic, and including all pilot time related to an assignment to help set the number of pilots needed.

Response: We agree that traffic overestimates have been a problem in the past and that, as a result, pilot revenue has been less than necessary to support pilot attraction and retention efforts and the maintenance of necessary pilot association infrastructure. We also agree that a multi-year average should produce more reliable estimates for future traffic projections. We are lengthening our proposed 5-year average to include (starting in 2017) 10 years of data, which should reduce even further the rate volatility caused by basing rates on traffic projections for the upcoming season, rather than on actual past experience.

The ports and shippers coalition, in comment 53, charged that the Coast Guard acted arbitrarily in proposing to exclude 2009 and 2014 traffic volume data from our 5-year average, because we viewed those years as ''outliers'' the inclusion of which would distort that average. The coalition pointed out that 2015 is on track to mirror 2014 traffic volume, and that therefore, 2014 should no longer be considered an outlier year. In comment AW, the coalition opposed identifying any seasons as outliers, for the purpose of projecting future traffic.

Response: We agree that 2009 and 2014 traffic volume data should be included in our calculations. We have reliable traffic data from 2006 (covering only part of that season) onward, and therefore, for the 2016 ratemaking we have 9 years of data available for use in our calculations (2007–2015). Because our identification of an ''outlier'' year would be subjective, and because a 9-year data set will reduce any distortion that an outlier year's data could cause, we have decided against excluding outlier years from our calculations, and to consider all 9 years' data for this ratemaking. By 2017, we will have reliable data from 10 full shipping seasons, 2007–2016, and from then on we will use data from the 10 most recent seasons.

The ports and shippers coalition, in comment 53, responded to our question asking if there is an objective standard by which we can determine whether a particular shipping season should be considered an outlier and excluded from our multi-year historic average traffic level. They said there is no typical shipping season, that both 2014 (which we considered an outlier in the NPRM) and 2015 should be included, and that we should rely on industry projections to estimate future demand.

Response: We agree that, at least at this time, we cannot identify a ''typical'' season. As already discussed, we agree and have decided not to identify or exclude outlier shipping seasons from our calculations and to expand our data set to include more years.

We disagree with the coalition's suggestion that we should rely, not on historical traffic data, but on industry projections. That was our practice for the past 20 years and we repeatedly found it unreliable. It led to significant overestimates of the next season's traffic, and consequently to revenue shortfalls and overworked pilots. Continued use of such projections would jeopardize the safe, efficient, and reliable pilotage service that the Coast

[54] *See* 46 U.S.C. 9307(b)(2).

Guard and all stakeholders see as our goal.

The ports and shippers coalition, in comment 53, responded to our question asking for other sources of traffic data for shipping seasons prior to 2009 to help identify outlier years. They said we should consult industry sources. A pilot association president in comment 56 also responded to this question, and said his association could provide its data for District Three.

Response: We thank these commenters for their input, however we will not identify or exclude outlier years and thus no longer need outlier year data to expand our traffic history data set.

A pilot in comment 55B welcomed the proposed use of a multi-year historical average to predict future traffic demand.

Response: We agree that this will provide a more objective and reliable standard than the industry traffic projections that have consistently underestimated the next season's traffic volume.

Miscellaneous issues. The national pilots association in comment 38 said we should allow a higher return on investment, given a pilot association's management responsibilities and exposure to the risk of fluctuating traffic levels.

Response: We disagree. The rate of return is reasonable given the nature of a regulated service that precludes any competition.

A national pilot association, in comment 38, also said that current 46 CFR 401.451's existing requirement for a minimum of 10 hours between a pilot's assignments should be revised upward to reflect the travel time that may be necessary for a pilot to reach home or another place where the pilot can sleep between assignments.

Response: We will take this suggestion under advisement but it is outside the scope of this rulemaking, which does not address the adequacy of § 401.451's 10-hour requirement.

A national pilot association in comment 38 said we should add regulatory language to provide for surcharges between ratemakings, to cover unanticipated pilot association expenses.

Response: We disagree and believe our current annual rate structure is sufficient to identify and authorize the need for surcharges.

A port commenter in comment 48 said the high cost of pilotage could be mitigated by eliminating pilotage requirements in large open portions of the Great Lakes or where improved navigational tools can offset the need for pilotage.

Response: U.S. Great Lakes pilotage requirements are set by statute. The Coast Guard has no authority to change these requirements, and therefore, this comment is outside the scope of this rulemaking.

The national pilots association in comment 49 said we should specify that, in setting target pilot compensation, the Coast Guard will consider the need to attract and retain the most qualified persons to provide safe, efficient, and reliable pilotage.

Response: We appreciate this comment but find it unnecessary to add the suggested language. Our proposed language for § 404.1(a) makes it clear that the guiding principle of our ratemaking is to ensure safe, efficient, and reliable pilotage service, and it therefore goes without saying that we will encourage the hiring and retention of a sufficient number of highly qualified persons to provide that service.

The presidents' group, in comment 52, supported the use of automatic annual rate adjustments between base years.

Response: We agree and believe this will provide all stakeholders with more predictable cost information for the interim years.

The ports and shippers coalition, in comment 53, said we arbitrarily departed from our past practice of not requiring a reserve allowance for unforeseeable future needs by proposing that our 2016 rates include a reserve allowance for each pilot association's unforeseeable future needs, which the coalition said is contrary to generally-accepted rate setting principles. The coalition said that, in the past, we recognized only those reasonable and necessary expenses that have already been incurred.

Response: Our rates have always allowed for a fair return on an association's revenue, as one way for the association to fund future improvements. However, long-term revenue shortages have led to degraded infrastructure that threatens safe, efficient, and reliable pilotage. This change will ensure that the pilotage associations can build up additional reserves to address current and future infrastructure needs before they become critical.

The coalition, in comment 53, said we should consider an alternative regulatory tool, negotiated rulemaking to set rates.

Response: Negotiated rulemaking committees are typically authorized and follow a process set by statute.[55] The coalition correctly pointed out that a negotiated rulemaking brings key stakeholders and Federal agencies together to develop a consensus recommendation on a particular regulation. We accept their statement that it has been used 85 times in the past, by various agencies. We agree that negotiated rulemaking can be a very useful regulatory instrument in certain contexts. However, the negotiated rulemaking process is also long and complex involving the creation of, and work by, a formal stakeholder committee attempting to achieve consensus, in addition to undergoing the standard notice and comment process we already follow. Although variations on this process are possible, we do not think that negotiated rulemaking could work within the constraints of our statutory requirement to set rates annually or that it would provide stakeholder input not already gained through GLPAC recommendations and input from public comment.

A pilot association president in comment 56 said our regulations should include a definitions section to provide discipline and transparency.

Response: We appreciate the commenter's concern but think it's unnecessary to add a definitions section. Where the regulation does not define its own terms, all its terms have ordinary dictionary definitions.

A pilot association president in comment 56 said we proposed setting future pilot needs, and setting target compensation based on the projected number of pilots, only for the first year of a multi-year ratemaking, but not for the out-years, and that we should also cover the out-years, lest associations be forced to cancel recuperative rest periods to keep up with growing demand. He suggested revising these projections during each annual rate review.

Response: We agree that this is an important consideration for implementation of a multi-year rate, but given our intention to continue annual ratemakings in the near future, we see no need for action with respect to out-years at this time.

A pilot association president in comment 56 asked us to clarify whether proposed § 404.107(b) was intended to adjust rates only in his district's (District Three's) designated waters or in both designated and undesignated waters. He also supported our proposed harmonization of rates in all the

[55] Negotiated Rulemaking Act, codified as 5 U.S.C. 561–570.

undesignated waters of his district, to reduce revenue volatility due to shifting traffic patterns.

Response: We believe an adjustment to rates in a district's designated waters rates would also require an adjustment to its undesignated waters' rates, since the association must meet the same revenue requirements regardless of the waters in which assignments take place. We agree the rate harmonization in District Three should reduce revenue volatility.

A pilot association president in comment 56 said that the proposed cancellation provisions of § 401.420(b) were ill-adapted to the large distances found in District Three, where a pilot might have to begin traveling to a pickup point long before the order for his services becomes final.

Response: We agree with the president's comments but are unsure of a remedy that would be appropriate across all districts, and we have never issued regulations that apply to only one district. We defer action on this comment until a future rulemaking and we welcome further comment on an appropriate solution for this district based on the results of 2016.

A pilot association president in comment 56 said, with respect to the proposed vessel trip delay and pilot detention language in § 401.420(c), that weather conditions in November often produce these delays, and that therefore, we should modify our proposed exception to the rule, from May through November, that vessels are responsible for compensating a pilot for weather-related delay or detention.

Response: We will take this suggestion under advisement. We think more analysis is required before we adjust the calendar exclusions, and we welcome further input from the president on this issue.

With respect to the ''overcarriage'' provisions of proposed § 401.428(a), a pilot association president in comment 56 said there is confusion between what we meant by ''change points'' in this section and what we meant by the term in proposed § 401.450. He interpreted the former provisions to relate only to one of the eight change points where vessels normally do not stop unless they are changing pilots, and that a pilot should be compensated whenever his overcarriage results from factors beyond his control.

Response: ''Overcarriage'' refers to a pilot being kept on board a vessel past the normal change point. The change points to which § 401.428 refers are those listed in § 401.450. We do not agree that a pilot should be compensated for any overcarriage for which the pilot is not responsible. For example, a pilot would not be responsible for a weather delay, but (except at the beginning and end of the season) neither would it be fair for the vessel to have to pay for an unforeseen weather event.

A pilot association president in comment 56 said that the vast majority of harbor moves in District Three are short jobs that require extensive pilot travel, and that because these moves are compensated at the lower undesignated waters rate, there is no industry incentive to eliminate unnecessary moves. Therefore he favored compensating these assignments at the higher designated waters rate.

Response: We disagree. These moves occur in undesignated waters and thus must be billed at the undesignated rate. However, the travel costs for these jobs are necessary and reasonable expenses that will be reflected in future rates. We welcome further proposals from the president for improving the dispatching system to make better use of pilot resources.

A port commenter in comment AB supported the new rates but said we need to maintain strict oversight to ensure that the rates are used largely to hire and train new pilots and to retain current pilots.

Response: We monitor the pace at which the pilotage associations hire and train pilots, and the overall size of their pilot pools, and in each of our annual ratemakings we report to the public on the number of pilots currently on hand in each association. We also closely monitor the training of all new pilots as a routine part of issuing registrations to Great Lakes Pilots. We think this provides the strict oversight the commenter requested.

VI. Discussion of Rate Changes

We proposed new rates and a temporary surcharge (for pilot hiring and training) for 2016. We reviewed the independent accountant's financial reports for each association's 2013 expenses and revenues. Those reports, which include pilot comments on draft versions and the accountant's response to those comments, appear in the docket.[56]

We are setting new rates, applying our new ratemaking methodology as follows:

Recognize previous year's operating expenses (§ 404.101). We reviewed and accepted the accountant's final findings on the 2013 audits of association expenses, as shown in Figures 8 through 10.

FIGURE 8—RECOGNIZED EXPENSES FOR DISTRICT ONE

Reported expenses for 2013	District One		
	Area 1 designated	Area 2 undesignated	Total
	St. Lawrence River	Lake Ontario	
Operating Expenses:			
Other Pilotage Costs:			
Pilot subsistence/Travel	$281,488	$168,508	$449,996
License insurance	26,976	25,010	51,986
Payroll taxes	65,826	51,244	117,070
Other	6,925	5,460	12,385
Total other pilotage costs	381,215	250,222	631,437
Pilot Boat and Dispatch Costs:			
Pilot boat expense	131,193	102,077	233,270
Dispatch expense			
Payroll taxes	9,169	7,230	16,399
Total pilot and dispatch costs	140,362	109,307	249,669

[56] *See* ''Summary—Independent Accountant's Report on Pilot Association Expenses, with Pilot Association Comments and Accountant's Responses.''

FIGURE 8—RECOGNIZED EXPENSES FOR DISTRICT ONE—Continued

Reported expenses for 2013	District One		
	Area 1 designated	Area 2 undesignated	Total
	St. Lawrence River	Lake Ontario	
Administrative Expenses:			
Legal—general counsel	631	498	1,129
Legal—shared counsel (K&L Gates)	12,736	10,040	22,776
Insurance	22,525	17,756	40,281
Employee benefits	11,063	7,868	18,931
Payroll taxes	5,190	4,093	9,283
Other taxes	22,175	17,486	39,661
Travel	524	413	937
Depreciation/auto leasing/other	42,285	33,333	75,618
Interest	15,151	11,943	27,094
APA Dues	13,680	10,830	24,510
Dues and subscriptions	280	220	500
Utilities	4,920	3,878	8,798
Salaries	54,153	42,691	96,844
Accounting/Professional fees	5,091	4,009	9,100
Pilot Training	.....	.....	.....
Other	8,834	6,954	15,788
Total Administrative Expenses	219,238	172,012	391,250
Total Operating Expenses (Other Costs + Pilot Boats + Admin)	740,815	531,541	1,272,356
Proposed Adjustments (Independent CPA):			
Payroll taxes	(1,855)	(1,750)	(3,605)
TOTAL CPA ADJUSTMENTS	(1,855)	(1,750)	(3,605)
Proposed Adjustments (Director):			
Dues and subscriptions	(280)	(220)	(500)
APA Dues	(2,052)	(1,625)	(3,677)
Legal—shared counsel (K&L Gates)	(12,736)	(10,040)	(22,776)
Dock Adjustment *	11,936	9,409	21,345
Surcharge Adjustment **	(54,481)	(42,948)	(97,429)
TOTAL DIRECTOR'S ADJUSTMENTS	(57,613)	(45,424)	(103,037)
Total Operating Expenses (OpEx + Adjustments)	681,347	484,368	1,165,715

* Based on the discussion without objection in the 2014 GLPAC meeting on this subject, this adjustment allocates $21,345 to District 1 to ensure complete recoupment of costs associated with upgrading the dock in Cape Vincent. Revenue projection shortfalls, confirmed by the revenue audits, resulted in District 1 not fully recouping the costs of the dock through previous rulemakings.

** District One collected $146,424.01 with an authorized 3% surcharge in 2014. The adjustment represents the difference between the collected amount and the authorized amount of $48,995 authorized in the 2014 final rule.

Note: Numbers may not total due to rounding.

FIGURE 9—RECOGNIZED EXPENSES FOR DISTRICT TWO

Reported expenses for 2013	District Two		
	Area 4 undesignated	Area 5 designated	Total
	Lake Erie	Southeast Shoal to Port Huron, MI	
Operating Expenses:			
Other Pilotage Costs:			
Pilot subsistence/Travel	$84,164	$126,246	$210,410
License insurance	6,168	9,252	15,420
Payroll taxes	44,931	67,397	112,328
Other	33,021	49,532	82,553
Total other pilotage costs	168,284	252,427	420,711
Pilot Boat and Dispatch Costs:			
Pilot boat expense	142,936	214,405	357,341
Dispatch expense	7,080	10,620	17,700
Employee benefits	60,665	90,997	151,662
Payroll taxes	8,316	12,474	20,790
Total pilot and dispatch costs	218,997	328,496	547,493
Administrative Expenses:			
Legal—general counsel	3,414	5,122	8,536
Legal—shared counsel (K&L Gates)	7,304	10,956	18,260
Legal—USCG litigation	231	346	577
Office rent	26,275	39,413	65,688
Insurance	9,175	13,762	22,937
Employee benefits	20,586	30,879	51,465

FIGURE 9—RECOGNIZED EXPENSES FOR DISTRICT TWO—Continued

Reported expenses for 2013	District Two		
	Area 4 undesignated	Area 5 designated	Total
	Lake Erie	Southeast Shoal to Port Huron, MI	
Payroll taxes	4,899	7,349	12,248
Other taxes	14,812	22,217	37,029
Depreciation/auto leasing/other	22,956	34,434	57,390
Interest	3,439	5,159	8,598
APA Dues	8,208	12,312	20,520
Utilities	14,310	21,465	35,775
Salaries	42,633	63,949	106,582
Accounting/Professional fees	9,294	13,940	23,234
Pilot Training			
Other	9,757	14,638	24,395
Total Administrative Expenses	197,293	295,941	493,234
Total Operating Expenses (Other Costs + Pilot Boats + Admin)	584,574	876,864	1,461,438
Proposed Adjustments (Independent CPA):			
Insurance	(2,362)	(3,544)	(5,906)
Employee benefits	(360)	(541)	(901)
Depreciation/auto leasing/other	(6,391)	(9,587)	(15,978)
TOTAL CPA ADJUSTMENTS	(9,113)	(13,672)	(22,785)
Proposed Adjustments (Director):			
APA Dues	(1,231)	(1,847)	(3,078)
Legal—shared counsel (K&L Gates)	(7,304)	(10,956)	(18,260)
Legal—USCG litigation	(231)	(346)	(577)
TOTAL DIRECTOR'S ADJUSTMENTS	(8,766)	(13,149)	(21,915)
Total Operating Expenses (OpEx + Adjustments)	566,695	850,043	1,416,738

FIGURE 10—RECOGNIZED EXPENSES FOR DISTRICT THREE

Recognizable expenses	District Three		
Reported Expenses for 2013	Areas 6 and 8 undesignated	Area 7 designated	Total
	Lakes Huron, Michigan, and Superior	St. Mary's River	
Operating Expenses:			
Other Pilotage Costs:			
Pilot subsistence/Travel	$337,978	$112,660	$450,638
License insurance	13,849	4,616	18,465
Payroll taxes			
Other	15,664	5,221	20,885
Total other pilotage costs	367,491	122,497	489,988
Pilot Boat and Dispatch Costs:			
Pilot boat expense	435,353	145,118	580,471
Dispatch expense	140,440	46,814	187,254
Payroll taxes	15,680	5,227	20,907
Total pilot and dispatch costs	591,473	197,159	788,632
Administrative Expenses:			
Legal—general counsel	567	189	756
Legal—shared counsel (K&L Gates)	20,260	6,754	27,014
Office rent	7,425	2,475	9,900
Insurance	8,098	2,699	10,797
Employee benefits	123,002	41,001	164,003
Payroll taxes	10,272	3,424	13,696
Other taxes	1,383	461	1,844
Depreciation/auto leasing/other	24,237	8,079	32,316
Interest	2,403	801	3,204
APA Dues	18,895	6,299	25,194
Dues and subscriptions	4,275	1,425	5,700
Utilities	32,672	10,891	43,563
Salaries	89,192	29,731	118,923
Accounting/Professional fees	20,682	6,894	27,576
Pilot Training			
Other	11,260	3,753	15,013
Total Administrative Expenses	374,623	124,876	499,499

FIGURE 10—RECOGNIZED EXPENSES FOR DISTRICT THREE—Continued

Recognizable expenses	District Three		
Reported Expenses for 2013	Areas 6 and 8 undesignated	Area 7 designated	Total
	Lakes Huron, Michigan, and Superior	St. Mary's River	
Total Operating Expenses (Other Costs + Pilot Boats + Admin)	1,333,587	444,532	1,778,119
Proposed Adjustments (Independent CPA):			
Pilot subsistence/Travel	(5,183)	(1,728)	(6,911)
Payroll taxes	103,864	34,621	138,485
Dues and subscriptions	(4,275)	(1,425)	(5,700)
TOTAL CPA ADJUSTMENTS	94,406	31,468	125,874
Proposed Adjustments (Director):			
APA Dues	(2,834)	(945)	(3,779)
Legal—shared counsel (K&L Gates)	(20,260)	(6,754)	(27,014)
TOTAL DIRECTOR'S ADJUSTMENTS	(23,094)	(7,699)	(30,793)
Total Operating Expenses (OpEx + Adjustments)	1,404,899	468,301	1,873,200

Project next year's operating expenses, adjusting for inflation or deflation (§ 404.102). We base our 2014 and 2015 inflation adjustments on BLS data from the Consumer Price Index for the Midwest Region of the United States,[57] and project it for 2016 based on the target inflation rate set by the Federal Reserve,[58] as shown in Figures 11 through 13.

FIGURE 11—INFLATION ADJUSTMENT, DISTRICT ONE

	District One		
	Designated	Undesignated	Total
Total Operating Expenses (Step 1)	$681,347	$484,368	$1,165,715
2014 Inflation Modification (@1.4%)	9,539	6,781	16,320
2015 Inflation Modification (@1.5%)	10,363	7,367	17,731
2016 Inflation Modification (@2%)	14,025	9,970	23,995
Adjusted 2016 Operating Expenses	715,274	508,486	1,223,760

FIGURE 12—INFLATION ADJUSTMENT, DISTRICT TWO

	District Two		
	Designated	Undesignated	Total
Total Operating Expenses (Step 1)	$566,695	$850,043	$1,416,738
2014 Inflation Modification (@1.4%)	7,934	11,901	19,834
2015 Inflation Modification (@1.5%)	8,619	12,929	21,549
2016 Inflation Modification (@2%)	11,665	17,497	29,162
Adjusted 2016 Operating Expenses	594,913	892,370	1,487,283

FIGURE 13—INFLATION ADJUSTMENT, DISTRICT THREE

	District Three		
	Designated	Undesignated	Total
Total Operating Expenses (Step 1)	$1,404,899	$468,301	$1,873,200
2014 Inflation Modification (@1.4%)	19,669	6,556	26,225
2015 Inflation Modification (@1.5%)	21,369	7,123	28,491
2016 Inflation Modification (@2%)	28,919	9,640	38,558
Adjusted 2016 Operating Expenses	1,474,855	491,620	1,966,474

[57] Available at *http://www.bls.gov/data.* Select ''One Screen Data Search'' under ''All Urban Consumers (Current Series) (Consumer Price Index—CPI)''. Then select ''Midwest urban'' from Box 1 and ''All Items'' from Box 2. Our numbers for 2014 and 2015 are generated through this query and formatted to show annual percentage changes (available through ''More Formatting'' link).

[58] Further discussion available on the Federal Reserve target inflation rate is on their Web site at *http://www.federalreserve.gov/newsevents/press/monetary/20160127b.htm, http://www.federalreserve.gov/newsevents/press/monetary/20120125c.htm,* and *http://www.federalreserve.gov/faqs/money_12848.htm*

Determine number of pilots needed (§ 404.103). We first consider if reliable traffic data are available from up to the 10 most recent full shipping seasons. In this case, we have reliable data from the Great Lakes Pilotage Management System dating back to 2007. This gives us 9 years of data (2007–2015) that we can use for this year's ratemaking. Beginning with next year's ratemaking, and for all subsequent ratemakings, we should have reliable data for 10 years of full shipping seasons.

Next, we calculate the average cycle time associated with each pilot assignment, in each area. In the future, we intend to use Great Lakes Electronic Pilot Management System (GLPMS) data to track cycle time, but that data is not available for our current base period. Our best source for that base period's cycle time is the Bridge Hour Definition and Methodology Final Report prepared on our behalf in 2013.[59] Although we expect GLPMS data to produce better data in the future, the 2013 report relied heavily on pilot input and drafts were made widely available to the pilots for their review and comment. Figure 14 shows the 2013 report's calculation of the pilot work cycle for each area.

FIGURE 14—CYCLE TIME, 2013 REPORT

	Trip time (hrs)	Travel (hrs)	Pilot boat transit (hrs)	Delay (hrs)	Admin (hrs)	Total time on assignment (hrs)	Mandatory rest (hrs)	Pilot assignment cycle (hrs)
D1:								
Area 1	7.7	2.9	0.3	0.7	0.5	12.1	10	22.1
Area 2	10.4	4.0	0.6	0.9	0.5	16.4	10	26.4
Area 3	Welland Canal Exclusive to Canadian Pilots							
D2:								
Area 4	11.1	4.2	0.4	0.7	0.5	16.9	10	26.9
Area 5	6.1	2.3	0.9	0.4	0.5	10.2	10	20.2
D3:								
Area 6	22.5	1.6	0.8	1.0	0.5	26.4	10	36.4
Area 7	7.1	1.4	2.2	0.3	0.5	11.5	10	21.5
Area 8	21.6	1.8	1.9	3.3	0.5	29.1	10	39.1

We then determine the average peak late-season traffic demand over the base period, as shown in Figure 15. Figure 15 also shows the average number of pilots that would have been needed to meet the peak demand, and for comparison purposes shows the average number (39) of needed and authorized pilots for 2007–2015.

FIGURE 15—AVERAGE PEAK TRAFFIC DEMAND AND PILOT REQUIREMENTS, 2007–2015

	District One		District Two		District Three		
	Area 1 (designated)	Area 2 (undesignated)	Area 4 (undesignated)	Area 5 (designated)	Area 6 (undesignated)	Area 7 (designated)	Area 8 (undesignated)
Average late-season peak assignments per day	5	5	5	5	5	5	5
Average number of pilots needed to meet peak demand (total = 54)	10	5	5	10	7	10	7
Average authorized pilots, 2007–2015 (total = 39)	6	5	4	6	8	4	6
Authorized pilots, 2015 (total = 36)	6	5	4	6	6	4	5

As shown in Figure 14, according to the 2013 report cycle time for pilots in designated waters is a little over 20 hours. This implies that, on average in late seasons over the base period, one pilot could move one vessel per day. However, to fully meet peak season demand, the pilot associations must be staffed to provide double pilotage, and Figure 15 reflects that doubling in the number of pilots needed in the designated waters of Areas 1, 5, and 7.

Except in extreme circumstances, double pilotage is not required in the open and undesignated waters of Areas 2, 4, 6, and 8, and Figure 15 shows no doubling in those areas. However, Figure 14 does show a 50 percent increase from the one pilot-one vessel standard in undesignated Areas 6 and 8, which are located in the large western Great Lakes. Areas 6 and 8 are not contiguous, but both flank the designated waters of Area 7. Travel times in Areas 6 and 8 are greater than they are in the undesignated waters of smaller Lakes Erie and Ontario, and on average a pilot needs approximately 1.5 days per vessel, not just 1, to move a vessel. Therefore, Figure 15 shows 7 pilots, not 5, in each of Areas 6 and 8. This number will ensure that the five ships shown as moving daily through Area 7 could be moved through the undesignated waters at the same rate.

Based on our Figure 15 numbers, and as shown in Figure 16, we find that 54 pilots are needed over the period for which 2016 base rates will be in effect, as opposed to the 36 currently authorized pilots shown in Figure 15. Figure 16 also shows that based on our best current information we project there will be only 37 fully working and fully compensated pilots (''working pilots'') in 2016. This decrease from our initial projections in the NPRM is based on feedback from the pilot associations. However, we have increased the number of applicants funded via surcharge significantly from the NPRM, again based on pilot association feedback, to

[59] *Bridge Hour Definition and Methodology Final Report,* MicroSystems Integration, Inc. (June 25, 2013), available in the docket and at *http://www.uscg.mil/hq/cg5/cg552/pilotage.asp.* This analysis is detailed in Appendix B of the report, on page B–10.

help the pilot associations close the gap between needed pilots and working pilots as soon as possible.

FIGURE 16—PILOTS NEEDED; PILOTS PROJECTED TO BE WORKING

	District One	District Two	District Three
Needed pilots, period for which 2016 rates are in effect (total = 54)	15	15	24
Working pilots projected for 2016 (total = 42)	12	12	13

Determine target pilot compensation (§ 404.104). Coast Guard analysis and calculations. For this 2016 ratemaking, we considered three possible sources for benchmark compensation data, and we selected GLPA data for that benchmark because they provide the most comparable compensation for comparable work under comparable conditions. Recent GLPA compensation is shown in Figure 17. The compensation in 2013 and 2014 is increased based on additional information supplied by the GLPA, documenting how they compensate full-time, part-time, and contract pilots. We believe only compensation associated with fulltime Canadian pilots should be used as a basis of comparison to set the benchmark for U.S. Registered Pilots.

FIGURE 17—COMPARING PILOT COMPENSATION AND WAGE INFORMATION

	Average GLPA compensation [60] (CAD)
2011	$233,567
2012	247,145
2013	273,145
2014	329,045
Average	270,726

GLPA pilots provide service that is almost identical to the service provided by U.S. Great Lakes pilots. However, unlike the U.S. pilots, GLPA pilots are government employees with guaranteed minimum compensation, increases for high-traffic periods, benefits (retirement, healthcare, vacation), limited professional liability, and guaranteed time off during the shipping season.

Figures 18 through 20 show actual GLPA compensation figures for 2011–2014, adjust for foreign exchange differences and inflation,[61] and project future GLPA compensation for 2015 and 2016.

FIGURE 18—RECENT HISTORY OF CANADIAN GLPA PILOT COMPENSATION [62]

Year	GLPA Compensation (CAD)	GLPA Compensation (USD)
2014	$329,045	$286,375
2013	273,145	255,037
2012	247,145	237,639
2011	233,567	226,984

Figure 19 adjusts these figures for inflation in each year.

FIGURE 19—INFLATION ADJUSTMENTS [63]

Year	USD (from Figure 16)	2012 Inflation adjustment (@3.2%)	2013 Inflation adjustment (@2%)	2014 Inflation adjustment (@1.4%)	2015 Inflation adjustment (@1.5%)	2016 Inflation projection (@2%) *	Total (2016 USD)
2014	$286,375				$4,296	$5,728	$296,398
2013	255,037			3,571	3,826	5,101	267,534
2012	237,639		4,753	3,327	3,565	4,753	254,036
2011	226,984	7,263	4,540	3,178	3,405	4,540	249,909

Figure 20 shows the year-on-year percentage change in GLPA compensation, converted to 2016 USD.

FIGURE 20—ANALYSIS OF CANADIAN GLPA PILOT COMPENSATION

Year	GLPA compensation	Percent change
2014	$296,398	10.8
2013	267,534	5.3
2012	254,037	1.7
2011	249,910	

We base our target pilot compensation on 2013 GLPA compensation, because it provides a more reliable benchmark than 2014, which saw a sharp rise from the previous trend, probably due to a 17 percent Canadian traffic increase in 2014, compounded by extended ice conditions.

Based on 2013 GLPA compensation, Figure 21 shows our projection for GLPA's 2016 compensation. Compensation is increased at 3.5 percent annually, the average growth rate of Canadian compensation between 2011 and 2013.

FIGURE 21—PROJECTED INCREASES IN CANADIAN GREAT LAKES PILOT COMPENSATION [64]

Year	Projected GLPA compensation (2016 USD) *
2016	$296,467
2015	286,491
2014	276,850

[60] *http://www.glpa-apgl.com/annualReports_e.asp.* Also, see GLPA updates posted to the public docket. 2013 and 2014 figures are calculated by including only full-time compensation information for GLPA pilots. Part-time and contract pilots are excluded from the figures.

[61] Based on Midwest CPI–U from BLS. Available at *http://www.bls.gov/data.* Select ''One Screen Data Search'' under ''All Urban Consumers (Current Series) (Consumer Price Index—CPI)''.). Then select ''Midwest urban'' from Box 1 and ''All Items'' from Box 2. Our numbers for 2011–2014 are generated through this query and formatted to show annual percentage changes.

[62] All figures reflect annual average currency conversions for the time periods provided, using exchange rates provided by the Internal Revenue Service. *See http://www.irs.gov/Individuals/International-Taxpayers/Yearly-Average-Currency-Exchange-Rates.*

[63] *See* footnote 64 for supporting inflation data. *See also* our earlier discussion of the Federal Reserve's target inflation rate for 2016 projections. *See also* the Bank of Canada's 2% target inflation rate at *http://www.bankofcanada.ca/core-functions/monetary-policy/inflation/*

[64] Figures are expressed in USD. Each year's compensation increases 3.5% in line with average compensation increases in 2012 and 2013.

FIGURE 21—PROJECTED INCREASES IN CANADIAN GREAT LAKES PILOT COMPENSATION [64]—Continued

Year	Projected GLPA compensation (2016 USD) *
2013	267,534

The difference in the status of U.S. and Canadian pilots, and the different compensation systems in place in the two countries are supportable circumstances for adjusting U.S. target pilot compensation by 10 percent over the projected 2016 GLPA figure, taking the U.S. target to $326,114, as shown in Figure 22. Several speakers at the 2014 GLPAC meetings [65] cited the 10 percent figure, and no other, as an appropriate adjustment for those differences. Public comments on the NPRM did not provide sufficient basis to adopt the target figures recommended by the pilots, $355,000 and almost $394,000. Figure 22 also shows total target compensation for each district, which is the individual target multiplied by the district's number of working pilots.

FIGURE 22—TOTAL TARGET PILOT COMPENSATION PER DISTRICT

	District One	District Two	District Three
Target compensation per pilot	$326,114	$326,114	$326,114
Number of working pilots	12	12	13
District target pilot compensation (total = $12,066,225)	$3,913,370	$3,913,370	$4,239,485

Determine return on investment (§ 404.105). The 2013 average annual rate of return for new issues of high-grade corporate securities was 4.24 percent,[66] which as shown in Figure 25 we use in setting each district's allowed return on investment.

FIGURE 23—RETURN ON INVESTMENT

	District One		District Two		District Three	
	Designated	Undesignated	Undesignated	Designated	Undesignated	Designated
Adjusted Operating Expenses (Step 2)	$715,274	$508,486	$594,913	$892,370	$1,474,855	$491,620
Total Target Pilot Compensation (Step 4)	2,282,799	1,630,571	1,630,571	2,282,799	2,935,028	1,304,457
Total 2016 Expenses	2,998,074	2,139,057	2,225,484	3,175,170	4,409,882	1,796,077
Return on Investment (4.24%)	127,118	90,696	94,361	134,627	186,979	76,154

Project needed revenue (§ 404.106). Figure 24 shows each district's 2016 needed revenue. The projected needed revenue for all districts is $17,453,678, up from 2015's latest projections of revenue of $15,588,653.

FIGURE 24—REVENUE NEEDED

	District One		District Two		District Three	
	Designated	Undesignated	Undesignated	Designated	Undesignated	Designated
Adjusted Operating Expenses (Step 2)	$715,274	$508,486	$594,913	$892,370	$1,474,855	$491,620
Total Target Pilot Compensation (Step 4)	2,282,799	1,630,571	1,630,571	2,282,799	2,935,028	1,304,457
Return on Investment (Step 5)	127,118	90,696	94,361	134,627	186,979	76,154
Total Revenue Needed (Total = $17,453,678)	3,125,192	2,229,753	2,319,844	3,309,797	4,596,861	1,872,230

Set initial base rates (§ 404.107). Figure 25 shows how we set initial base rates using pilot hours worked in our multi-year base period. This year, the base period includes data from the previous nine full shipping seasons from 2007 to 2015. By the 2018 ratemaking, we will have 10 year's data, and thereafter we will use the most recent 10 seasons for our base period.

FIGURE 25—HOURS WORKED, 2007–2015, DESIGNATED AND UNDESIGNATED WATERS

	District One		District Two		District Three	
	Designated	Undesignated	Undesignated	Designated	Undesignated	Designated
2015	5743	6667	6535	5967	22824	2696
2014	6810	6853	7856	7001	25833	3835
2013	5864	5529	4603	4750	17115	2631

[65] Transcript (7/24/2014), pp. 43–45.

[66] Based on Moody's AAA corporate bonds. *See http://research.stlouisfed.org/fred2/series/AAA/downloaddata?cid=119.*

FIGURE 25—HOURS WORKED, 2007–2015, DESIGNATED AND UNDESIGNATED WATERS—Continued

	District One		District Two		District Three	
	Designated	Undesignated	Undesignated	Designated	Undesignated	Designated
2012	4771	5121	3848	3922	15906	2163
2011	5045	5377	3708	3680	16012	1678
2010	4839	5649	5565	5235	20211	2461
2009	3511	3947	3386	3017	12520	1820
2008	5829	5298	4844	3956	14287	2286
2007	6099	5929	6223	6049	24811	5944
Average	5390	5597	5174	4842	18835	2835

Figure 26 shows our new initial rate calculations.

FIGURE 26—RATE CALCULATIONS [67]

	District One		District Two		District Three	
	Designated	Undesignated	Undesignated	Designated	Undesignated	Designated
Revenue Needed (Step 6)	$3,125,192	$2,229,753	$2,319,844	$3,309,797	$4,596,861	$1,872,230
Average time on task 2007–2015	5,390	5,597	5,174	4,842	18,835	2,835
Hourly Rate	$580	$398	$448	$684	$244	$660

District Three's rate for designated waters would be more than twice its rate for undesignated waters. Therefore, as shown in Figure 27, we apply a ratio to balance those rates so that the rate for designated waters is no more than twice the rate for undesignated waters while maintaining the same overall revenue requirement for the district.

FIGURE 27—DISTRICT THREE—CAPPED DESIGNATED WATERS RATE

	District Three	
	Areas 6, 8 undesignated	Area 7 designated
Revenue Needed	$4,972,265	$1,496,827
Projected Pilotage Demand	18,835	2,835
Hourly Rate	$264	$528

Review and finalize rates (§ 404.108). We are working with the pilotage associations to close the gap between the 37 working pilots we project for 2016 and the 54 pilots required to fulfill pilotage demand by training 11 applicant pilots during 2016. This requires expensive recruitment and training for these new pilots and ongoing training for the working pilots. Our usual practice of reimbursing training expenses only after they are incurred would delay that reimbursement for several years and reduce association funds for other vital purposes. This is a supportable circumstance for imposing a necessary and reasonable temporary 2016 surcharge for 2016 training expenses, which we will validate and adjust as necessary during our audit of actual 2016 association expenses. In the NPRM, we projected that the associations would hire 6 new pilots in 2016 at a training cost of $150,000 per pilot, for a total training cost of $900,000. We have modified pilot strength based on the pilot association's guidance for the number of registered and applicant pilots. This changed the revenue required for the districts by shifting pilots from our registered pilot estimates to applicants paid for by the surcharge. We project that the associations will hire 11 new pilots in 2016, at a total training cost of about $150,000 per pilot, as shown in Figure 28.

FIGURE 28—SURCHARGE CALCULATION BY DISTRICT

	District One	District Two	District Three
Projected Needed Revenue	$5,354,945	$5,629,641	$6,469,092
Training Surcharge	$450,000	$300,000	$900,000
Percent Surcharge	8%	5%	14%

[6] Rounded.

VII. Regulatory Analyses

We developed this final rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on these statutes or Executive Orders.

A. Regulatory Planning and Review

Executive Orders 13563 and 12866 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 (including potential economic, environmental, public health and safety effects, distributive effects, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This rule has not been designated a ''significant regulatory action'' under section 3(f) of Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

We developed an analysis of the costs and benefits of the final rule to ascertain its probable impacts on industry. The following figure summarizes the affected population, costs, and benefits of the final rule.

FIGURE 29—SUMMARY OF REGULATORY ECONOMIC IMPACTS

Category	Description	Affected population	2016 Costs	Benefits
Rate Changes	Under the Great Lakes Pilotage Act of 1960, Coast Guard is required to review and adjust base pilotage rates annually.	126 vessels journeying the Great Lakes system annually.	$3,515,025	—New rates cover an association's necessary and reasonable operating expenses. —Provides fair compensation, adequate training, and sufficient rest periods for pilots. —Ensures the association makes enough money to fund future improvements.
Procedural Changes.	Changes to the annual ratemaking methodology.	3 pilot associations	No direct cost for procedural changes but indirect costs could be changed in annual rate changes due to procedure revision.	—Provide maximum transparency and simplicity in the ratemaking methodology. —Make submitting data easier for pilots and more accurate.

The Coast Guard is required to review and adjust pilotage rates on the Great Lakes annually. See Parts III and IV of this preamble for detailed discussions of the Coast Guard's legal basis and purpose for this rulemaking and for background information on Great Lakes pilotage ratemaking. Based on our annual review for this rulemaking, we are adjusting the pilotage rates for the 2016 shipping season so pilot associations can generate sufficient revenues to reimburse their necessary and reasonable operating expenses, fairly compensate trained and rested pilots, and provide an appropriate profit to use for improvements. The rate changes in this rule would lead to an increase in the cost per unit of service to shippers in all three districts, and result in an estimated annual cost increase to shippers of approximately $1,865,025 across all three districts over 2015 payments (Figure 27).

In addition to the increase in payments that would be incurred by shippers in all three districts from the previous year as a result of the rate changes, we are authorizing a temporary surcharge to allow the pilotage associations to recover training expenses that would be incurred in 2016. We estimate that District One will incur $450,000, District Two will incur $300,000, and District Three will incur $900,000 in training expenses. These temporary surcharges would generate a combined $1,650,000 in revenue for the pilotage associations across all three districts. Note that in the NPRM, we projected that the associations would hire 6 new pilots in 2016 at a training cost of $150,000 per pilot, for a total training cost of $900,000. We have modified pilot strength based on the pilot association's guidance for the number of registered and applicant pilots and project that the associations will hire 11 new pilots in 2016.

Therefore, after accounting for the implementation of the temporary surcharges across all three districts, the annual payments made by shippers during the 2016 shipping season are estimated to be approximately $3,515,025 more than the payments that were made in 2015 (Figure 27).[68]

A regulatory analysis follows.

This rulemaking proposes revisions to the annual ratemaking methodology (procedural changes), and applies the ratemaking methodology to increase Great Lakes pilotage rates and surcharges from the current rates set in the 2015 final rule (rate changes). The methodology is discussed and applied in detail in Parts V and VI of this preamble. The last full ratemaking was concluded in 2015. The last annual rate review, conducted under 46 CFR part 404, appendix C, was completed early in 2011. Figure 29 summarizes the changes in the regulatory analysis (RA) from the NPRM to the final rule. These changes were the result of public comments received after publication of the NPRM. Figure 30 presents the elements in our analysis that changed along with the resultant change in the RA.

[68] Total payments across all three districts are equal to the increase in payments incurred by shippers as a result of the rate changes plus the temporary surcharges applied to traffic in Districts One, Two, and Three.

FIGURE 30—SUMMARY OF CHANGES FROM NPRM TO FINAL RULE

Element of the analysis	NPRM	Final rule	Resulting change in RA
Number of historic years of demand data used to establish the hourly rate.	5 years of data, excluding data from 2009.	Final rule uses data from 2007–2015, future ratemakings will use most recent 10 years of data.	Data indirectly affects the calculation of projected revenues.
Mandatory change point at Iroquois Lock.	Proposed additional change point at Iroquois Lock.	Final rule removes the mandatory change point at Iroquois Lock.	No change.
Target pilot compensation	$312,500	$326,114	Data indirectly affects the calculation of projected revenues.
Projected revenues	2015 revenues projected at $12,289,193, 2016 revenues projected at $18,557,345.	2015 revenues projected at $15,588,653, 2016 revenues projected at $17,453,678.	Cost increase to shippers decreases from $6,268,152 to $1,865,025.
Pilot strength for registered and applicant pilots.	42 registered working pilots and 6 applicant pilots in 2016.	37 registered working pilots and 11 applicant pilots in 2016.	Training expenses increased from $900,000 to $1,650,000.

Affected Population

The shippers affected by these rate changes are those owners and operators of domestic vessels operating on register (employed in foreign trade) and owners and operators of foreign vessels on routes within the Great Lakes system. These owners and operators must have pilots or pilotage service as required by 46 U.S.C. 9302. There is no minimum tonnage limit or exemption for these vessels. The statute applies only to commercial vessels and not to recreational vessels. Owners and operators of other vessels that are not affected by this final rule, such as recreational boats and vessels operating within the Great Lakes system, may elect to purchase pilotage services. However, this election is voluntary and does not affect the Coast Guard's calculation of the rate increase and is not a part of our estimated cost to shippers.

We used 2012–2014 vessel arrival data from the Coast Guard's SANS to estimate the average annual number of vessels affected by the rate adjustment. Using that period, we found that a mean of 126 vessels journeyed into the Great Lakes system annually from the years 2012–2014. These vessels entered the Great Lakes by transiting at least one of the three pilotage districts before leaving the Great Lakes system. These vessels often make more than one distinct stop, docking, loading, and unloading at facilities in Great Lakes ports. Of the total trips for the 126 vessels, there were 396 annual U.S. port arrivals before the vessels left the Great Lakes system, based on 2012–2014 vessel data from SANS.

Costs

The procedural changes are the revisions to the annual ratemaking methodology and several Great Lakes pilotage regulations. The procedural changes include all changes to the annual ratemaking methodology as discussed in Section IV. These procedural changes are intended to clarify and simplify the current methodology, and increase the accuracy of collecting information on each pilot association's expenses and revenues in order to lower the variance between projected revenue and actual revenue. These procedural changes do not impose any direct costs, but indirectly affect the annual rate change. We capture these indirect impacts of procedural changes in the rate change impact. The rate changes resulting from the new methodology would generate costs on industry in the form of higher payments for shippers. The effect of the rate changes on shippers is estimated from the District pilotage revenues. These revenues represent the costs that shippers must pay for pilotage services. The Coast Guard sets rates so that revenues equal the estimated cost of pilotage for these services.

We estimate the effect of the rate changes by comparing the total projected revenues needed to cover costs in 2015 with the figures for 2016, plus the temporary surcharges authorized by the Coast Guard. The last full year for which we have reported and audited financial information for the pilot association expenses is 2014, as discussed in Section VI of this preamble. Figure 31 shows the audited revenues and the revenue projections.

FIGURE 31—REVENUE PROJECTIONS

Area	2013 Revenue (audited)	2014 Revenue (audited)	2015 Revenue	2016 Projected revenue
D1 Designated	$1,990,865	$2,504,809	$2,725,255	$3,125,192
D1 Undesignated	1,415,299	1,991,313	2,166,567	2,229,753
Total, District 1	3,406,164	4,496,122	4,891,822	5,354,945
D2 Undesignated	1,267,750	2,196,822	2,099,600	2,319,844
D2 Designated	1,901,627	3,295,230	3,149,396	3,309,797
Total, District 2	3,169,377	5,492,052	5,248,996	5,629,641
D3 Undesignated	3,242,971	5,165,165	4,085,869	4,596,861
D3 Designated	1,080,994	1,721,731	1,361,964	1,872,230
Total, District 3	4,323,965	6,886,899	5,447,835	6,469,092
System Total	10,899,506	16,875,073	15,588,653	17,453,678

* Values may not sum due to rounding.

Figure 32 details the additional cost increases to shippers by area and district as a result of the rate changes and temporary surcharges on traffic in Districts One, Two, and Three.

FIGURE 32—EFFECT OF THE FINAL RULE BY AREA AND DISTRICT

[$U.S.; non-discounted]

Area	Projected revenue needed in 2015	Projected revenue needed in 2016	Total costs 2015 (2016–2015)	Temporary urcharge	Additional costs of this final rule
D1 Designated	$2,725,255	$3,125,192	$399,936		
D1 Undesignated	2,166,567	2,229,753	63,187		
Total, District 1	4,891,822	5,354,945	463,123	$450,000	$913,123
D2 Undesignated	2,099,600	2,319,844	220,244		
D2 Designated	3,149,396	3,309,797	160,401		
Total, District 2	5,248,996	5,629,641	380,645	300,000	680,645
D3 Undesignated	4,085,869	4,596,861	510,992		
D3 Designated	1,361,964	1,872,230	510,267		
Total, District 3	5,447,835	6,469,092	1,021,257	900,000	1,921,257
System Total	15,588,653	17,453,678	1,865,025	1,650,000	3,515,025

* Values may not sum due to rounding.

The resulting difference between the projected revenue in 2015 and the projected revenue in 2016 is the annual change in payments from shippers to pilots as a result of the rate change. This figure is equivalent to the total additional payments from the previous year that shippers would incur for pilotage services from this final rule.

The effect of the rate change in this final rule on shippers varies by area and district. The rate changes would lead to affected shippers operating in District One, District Two, and District Three experiencing an increase in payments of $463,123, $380,645, and $1,021,257, respectively, from the previous year.

In addition to the rate changes, temporary surcharges on traffic in District One, District Two, and District Three would be applied for the duration of the 2016 season in order for the pilotage associations to recover training expenses incurred. We estimate that these surcharges would generate an additional $450,000, $300,000, and $900,000 in revenue for the pilotage associations in District One, District Two, and District Three, respectively, for a total additional revenue of $1,650,000.

To calculate an exact cost or savings per vessel is difficult because of the variation in vessel types, routes, port arrivals, commodity carriage, time of season, conditions during navigation, and preferences for the extent of pilotage services on designated and undesignated portions of the Great Lakes system. Some owners and operators would pay more and some would pay less, depending on the distance travelled and the number of port arrivals by their vessels. However, the increase in costs reported earlier in this rulemaking does capture the adjustment in payments that shippers would experience from the previous year. The overall adjustment in payments, after taking into account the increase in pilotage rates and the addition of temporary surcharges would be an increase in payments by shippers of approximately $3,515,025 across all three districts.

Benefits

This rule will allow the Coast Guard to meet the requirements in 46 U.S.C. 9303 to review the rates for pilotage services on the Great Lakes. The rate changes will promote safe, efficient, and reliable pilotage service on the Great Lakes by ensuring rates cover an association's operating expenses; provide fair pilot compensation, adequate training, and sufficient rest periods for pilots; and ensures the association makes enough money to fund future improvements. The rate changes will also help recruit and retain pilots, which will ensure a sufficient number of pilots to meet peak shipping demand, which would help reduce delays caused by pilot shortages. During the 2014 shipping season, shippers reported over $5 million in delay related costs (lost charter hire and fuel spent idling) from ships having to wait for pilots.[69] The procedural changes will increase the accuracy of pilotage data by utilizing a uniform financial reporting system (see discussion of 46 CFR 403.300 in Part V of the preamble). The procedural changes will also promote greater transparency and simplicity in the ratemaking methodology through annual revenue audits (see discussion of 46 CFR 404.1 in Part V of the preamble).

B. Small Entities

As required by the Regulatory Flexibility Act,[70] we have considered whether this final rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000 people.

We expect that entities affected by this rule would be classified under the North American Industry Classification System (NAICS) code subsector 483—Water Transportation, which includes the following 6-digit NAICS codes for freight transportation: 483111—Deep Sea Freight Transportation, 483113—Coastal and Great Lakes Freight Transportation, and 483211—Inland Water Freight Transportation. According to the Small Business Administration's definition, a U.S. company with these NAICS codes and employing less than 500 employees is considered a small entity.

For this rule, we reviewed recent company size and ownership data for the period 2012 through 2014 in the Coast Guard's Marine Information for Safety and Law Enforcement database,

[69] *See* July 18, 2014 letter from the Shipping Federation of Canada and the United States Great Lakes Shipping Association to Admiral Zukunft.

[70] 5 U.S.C. 601–612.

and we reviewed business revenue and size data provided by publicly available sources such as MANTA [71] and Cortera.[72] We found that large, foreign-owned shipping conglomerates or their subsidiaries owned or operated all vessels engaged in foreign trade on the Great Lakes.

There are three U.S. entities affected by the final rule that receive revenue from pilotage services. These are the three pilot associations that provide and manage pilotage services within the Great Lakes districts. Two of the associations operate as partnerships and one operates as a corporation. These associations are designated with the same NAICS industry classification and small-entity size standards described above, but they have fewer than 500 employees; combined, they have approximately 65 total employees. We expect no adverse effect to these entities from this final rule because all associations receive enough revenue to balance the projected expenses associated with the projected number of bridge hours and pilots.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic effect on a substantial number of small entities.

C. Assistance for Small Entities

Under the Small Business Regulatory Enforcement Fairness Act of 1996 [73] we want to assist small entities in understanding this final rule so that they can better evaluate its effects on them and participate in the rulemaking. If the final rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Mr. Todd Haviland, Director, Great Lakes Pilotage, Commandant (CG–WWM–2), Coast Guard; telephone 202–372–2037, email *Todd.A.Haviland@uscg.mil*, or fax 202–372–1914. 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.

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).

D. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 [74] but adjusts the burden for an existing COI number 1625–0086, as described below.

Title: Great Lakes Pilotage.

OMB Control Number: 1625–0086.

Summary of the Collection of Information: The rule requires continued submission of data to an electronic collection system, identified as the Great Lakes Pilotage Management System, which will eventually replace the manual paper submissions currently used to collect data on bridge hours, vessel delay, vessel detention, vessel cancellation, vessel movage, pilot travel, revenues, pilot availability, and related data. Further, the rule requires pilot associations to provide copies of their paper source forms, or billing forms, until the transfer to electronic submission is available later in 2016. The pilot associations currently provide these documents to the Coast Guard each month.

Need for Information: This information is needed in order to more accurately set future rates.

Proposed Use of Information: We use this information to comply with the statutory and regulatory requirements for the Coast Guard's ratemaking and oversight functions.

Description of Respondents: The respondents represent the three U.S. Great Lakes pilotage associations whose 37 pilots provide pilotage service, as well as an estimated 11 applicants for 2016 pilot positions.

Number of Respondents: The rule increases the estimated number of respondents from 9 to 51 per year: The 3 pilot association representatives, 6 applicants, and 42 current pilots.

Frequency of Response: Frequency is dictated by marine traffic levels and association staffing.

Burden of Response: We estimate the burden will vary from 15 minutes for a pilot to complete the source form to one hour for the pilot association to transmit those forms to the Coast Guard.

Estimate of Annual Burden: We estimate the total annual burden will increase from 19 to 2,129.5 hours. You need not respond to a collection of information unless it displays a currently valid control number from OMB. The Coast Guard must have OMB's approval before it can enforce collection of information requirements.

E. Federalism

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

Congress directed the Coast Guard to establish ''rates and charges for pilotage services.'' [75] This regulation is issued pursuant to that requirement and is preemptive of state law.[76] Therefore, the rule is consistent with the principles of federalism and preemption requirements in Executive Order 13132.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 [77] 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 discuss its effects elsewhere in this preamble.

G. Taking of Private Property

This rule does not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

H. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. It is not an economically significant rule and creates no environmental risk to health

[71] See *http://www.manta.com/*.

[72] See *https://www.cortera.com/*.

[73] Public Law 104–121, sec. 213(a).

[74] 44 U.S.C. 3501–3520.

[75] 46 U.S.C. 9303(f).

[76] *See* 46 U.S.C. 9306: A ''State or political subdivision of a State may not regulate or impose any requirement on pilotage on the Great Lakes.'' As a result, States or local governments are expressly prohibited from regulating within this category.

[77] 2 U.S.C. 1531–1538.

or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This rule has no tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it has no 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.

K. Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

L. Technical Standards

The National Technology Transfer and Advancement Act [78] directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. 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,[79] and have determined that it is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. An environmental analysis checklist and categorical exclusion supporting this determination are available in the docket. This rule is categorically excluded under section 2.B.2, figure 2–1, paragraph 34(a) of the Instruction, which pertains to minor regulatory changes that are editorial or procedural in nature. This rule adjusts rates in accordance with applicable statutory and regulatory mandates.

[78] 15 U.S.C. 272, note.

[79] 42 U.S.C. 4321–4370f.

List of Subjects

46 CFR Part 401

Administrative practice and procedure, Great Lakes, Navigation (water), Penalties, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 403

Great Lakes, Navigation (water), Reporting and recordkeeping requirements, Seamen, Uniform System of Accounts.

46 CFR Part 404

Great Lakes, Navigation (water), Seamen.

For the reasons discussed in the preamble, the Coast Guard amends 46 CFR parts 401, 403, and 404 as follows:

Title 46—Shipping

PART 401—GREAT LAKES PILOTAGE REGULATIONS

■ 1. The authority citation for part 401 is revised to read as follows:

Authority: 46 U.S.C. 2103, 2104(a), 6101, 7701, 8105, 9303, 9304; Department of Homeland Security Delegation No. 0170.1(II)(92.a), (92.d), (92.e), (92.f).

■ 2. Revise § 401.405 to read as follows:

§ 401.405 Pilotage rates and charges.

(a) The hourly rate for pilotage service on—

(1) The St. Lawrence River is $580;

(2) Lake Ontario is $398;

(3) Lake Erie is $448;

(4) The navigable waters from Southeast Shoal to Port Huron, MI is $684;

(5) Lakes Huron, Michigan, and Superior is $264; and

(6) The St. Mary's River is $528.

(b) The pilotage charge is calculated by multiplying the hourly rate by the hours or fraction thereof (rounded to the nearest 15 minutes) that the registered pilot is on the bridge or available to the master of the vessel, multiplied by the weighting factor shown in § 401.400 of this part.

§ 401.407 [Removed]

■ 3. Remove § 401.407.

§ 401.410 [Removed]

■ 4. Remove § 401.410.

■ 5. Revise § 401.420 to read as follows:

§ 401.420 Cancellation, delay, or interruption in rendition of services.

(a) Except as otherwise provided in this section, a vessel can be charged as authorized in § 401.405 of this part for the waters in which the event takes place, if—

(1) A U.S. pilot is retained on board while a vessel's passage is interrupted;

(2) A U.S. pilot's departure from the vessel after the end of an assignment is delayed, and the pilot is detained on board, for the vessel's convenience; or

(3) A vessel's departure or movage is delayed, for the vessel's convenience, beyond the time that a U.S. pilot is scheduled to report for duty, or reports for duty as ordered, whichever is later.

(b) When an order for a U.S. pilot's service is cancelled after that pilot has begun traveling to the designated pickup place, the vessel can be charged for the pilot's reasonable travel expenses to and from the pilot's base; and the vessel can be charged for the time between the pilot's scheduled arrival, or the pilot's reporting for duty as ordered, whichever is later, and the time of cancellation.

(c) Between May 1 and November 30, a vessel is not liable for charges under paragraphs (a)(1) or (2) of this section, if the interruption or detention was caused by ice, weather, or traffic.

(d) A pilotage charge made under this section takes the place and precludes payment of any charge that otherwise could be made under § 401.405 of this part.

■ 6. Revise § 401.428 to read as follows:

§ 401.428 Boarding or discharging a pilot other than at designated points.

For a situation in which a vessel boards or discharges a U.S. pilot at a point not designated in § 401.450 of this part, it could incur additional charges as follows:

(a) Charges for the pilot's reasonable travel expenses to or from the pilot's base, if the situation occurs for reasons outside of the vessel's control, for example for a reason listed in § 401.420(c) of this part; or

(b) Charges for associated hourly charges under § 401.405 of this part, as well as the pilot's travel expenses as described in paragraph (a), if the situation takes place for the convenience of the vessel.

PART 403—GREAT LAKES PILOTAGE UNIFORM ACCOUNTING SYSTEM

■ 7. The authority citation for part 403 is revised to read as follows:

Authority: 46 U.S.C. 2103, 2104(a), 9303, 9304; Department of Homeland Security Delegation No. 0170.1(II)(92.a), (92.f).

§ 403.120 [Removed]

■ 8. Remove § 403.120.

■ 9. Revise § 403.300 to read as follows:

§ 403.300 Financial reporting requirements.

(a) Each association must maintain records for dispatching, billing, and invoicing, and make them available for Director's inspection, using the system currently approved by the Director.

(b) Each association must submit the compiled financial data and any other required statistical data, and written certification of the data's accuracy signed by an officer of the association, to the Director within 30 days of the end of the annual reporting period, unless otherwise authorized by the Director.

(c) By April 1 of each year, each association must obtain an unqualified audit report for the preceding year, audited and prepared in accordance with generally accepted accounting standards by an independent certified public accountant, and electronically submit that report with any associated settlement statements to the Director by April 7.

■ 10. Revise § 403.400 to read as follows:

§ 403.400 Uniform pilot's source form.

(a) Each association must record pilotage transactions using the system currently approved by the Director.

(b) Each pilot must complete a source form in detail as soon as possible after completion of an assignment, with adequate support for reimbursable travel expenses.

(c) Upon receipt, each association must complete the source form by inserting the rates and charges specified in 46 CFR part 401.

■ 11. Revise part 404 to read as follows:

PART 404—GREAT LAKES PILOTAGE RATEMAKING

Sec.

404.1 General ratemaking provisions.
404.2 Procedure and criteria for recognizing association expenses.
404.3 through 404.99 [Reserved].
404.100 Ratemaking and annual reviews in general.
404.101 Ratemaking step 1: Recognize previous operating expenses.
404.102 Ratemaking step 2: Project operating expenses, adjusting for inflation or deflation.
404.103 Ratemaking step 3: Determine number of pilots needed.
404.104 Ratemaking step 4: Determine target pilot compensation.
404.105 Ratemaking step 5: Project return on investment.
404.106 Ratemaking step 6: Project needed revenue.
404.107 Ratemaking step 7: Initially calculate base rates.
404.108 Ratemaking step 8: Review and finalize rates.

Authority: 46 U.S.C. 2103, 2104(a), 9303, 9304; Department of Homeland Security Delegation No. 0170.1(II)(92.a), (92.f).

§ 404.1 General ratemaking provisions.

(a) The goal of ratemaking is to promote safe, efficient, and reliable pilotage service on the Great Lakes, by generating for each pilotage association sufficient revenue to reimburse its necessary and reasonable operating expenses, fairly compensate trained and rested pilots, and provide an appropriate profit to use for improvements.

(b) Annual reviews of pilotage association expenses and revenue will be conducted in conjunction with an independent party, and data from completed reviews will be used in ratemaking under this part.

(c) Full ratemakings to establish multi-year base rates and interim year reviews and adjustments will be conducted in accordance with § 404.100 of this part.

§ 404.2 Procedure and criteria for recognizing association expenses.

(a) A pilotage association must report each expense item for which it seeks reimbursement through the charging of pilotage rates, and make supporting information available to the Director. The Director must recognize the item as both necessary for providing pilotage service, and reasonable as to its amount when compared to similar expenses paid by others in the maritime or other comparable industry, or when compared with Internal Revenue Service guidelines. The association will be given an opportunity to contest any preliminary determination that a reported item should not be recognized.

(b) The Director applies the following criteria to recognize an expense item as necessary and reasonable within the meaning of paragraph (a) of this section:

(1) *Operating or capital lease costs.* Conformity to market rates, or in the absence of a comparable market, conformity to depreciation plus an allowance for return on investment, computed as if the asset had been purchased with equity capital.

(2) *Return-on-investment.* A market equivalent return-on-investment is allowed for the net capital invested in the association by its members, if that investment is necessary for providing pilotage service.

(3) *Transactions not directly related to providing pilotage services.* Revenues and expenses generated from these transactions are included in ratemaking calculations as long as the revenues exceed the expenses. If these transactions adversely affect providing pilotage services, the Director may make rate adjustments or take other steps to ensure pilotage service is provided.

(4) *Pilot benefits.* Association-paid benefits, including medical and pension benefits and profit sharing, are treated as pilot compensation.

(5) *Profit sharing for non-pilot association employees.* These association expenses are recognizable.

(6) *Legal expenses.* These association expenses are recognizable except for any and all expenses associated with legal action against the U.S. government or its agents.

(c) The Director does not recognize the following expense items as necessary and reasonable within the meaning of paragraph (a) of this section:

(1) Unreported or undocumented expenses, and expenses that are not reasonable in their amounts or not reasonably related to providing safe, efficient, and reliable pilotage service;

(2) Revenues and expenses from Canadian pilots that are commingled with revenues and expenses from U.S. pilots;

(3) Lobbying expenses; or

(4) Expenses for personal matters.

§§ 404.3 through 404.99 [Reserved]

§ 404.100 Ratemaking and annual reviews in general.

(a) The Director establishes base pilotage rates by a full ratemaking pursuant to § 404.101–404.108 of this part, conducted at least once every 5 years and completed by March 1 of the first year for which the base rates will be in effect. Base rates will be set to meet the goal specified in § 404.1(a) of this part.

(b) In the interim years preceding the next scheduled full rate review, the Director will review the existing rates to ensure that they continue to meet the goal specified in § 404.1(a) of this part. If interim-year adjustments are needed, they will be set according to one of the following procedures, selected as the Director deems best suited to adjust the rates to meet that goal—

(1) Automatic annual adjustments, set during the previous full rate review in anticipation of economic trends over the term of the rates set by that review;

(2) Annual adjustments reflecting consumer price changes as documented in the U.S. Bureau of Labor Statistics Midwest Region Consumer Price Index (CPI–U); or

(3) A new full ratemaking.

§ 404.101 Ratemaking step 1: Recognize previous operating expenses.

The Director uses an independent third party to review each pilotage association's expenses, as reported and audited for the last full year for which figures are available, and determines which expense items to recognize for base ratemaking purposes in accordance with § 404.2 of this part.

§ 404.102 Ratemaking step 2: Project operating expenses, adjusting for inflation or deflation.

The Director projects the base year's non-compensation operating expenses for each pilotage association, using recognized operating expense items from § 404.101. Recognized operating expense items subject to inflation or deflation factors are adjusted for those factors based on the subsequent year's U.S. government consumer price index data for the Midwest, projected through the year in which the new base rates take effect.

§ 404.103 Ratemaking step 3: Determine number of pilots needed.

(a) The Director determines the base number of pilots needed by dividing each area's peak pilotage demand data by its pilot work cycle. The pilot work cycle standard includes any time that the Director finds to be a necessary and reasonable component of ensuring that a pilotage assignment is carried out safely, efficiently, and reliably for each area. These components may include but are not limited to—

(1) Amount of time a pilot provides pilotage service or is available to a vessel's master to provide pilotage service;

(2) Pilot travel time, measured from the pilot's base, to and from an assignment's starting and ending points;

(3) Assignment delays and detentions;

(4) Administrative time for a pilot who serves as a pilotage association's president;

(5) Rest between assignments, as required by 46 CFR 401.451;

(6) Ten days' recuperative rest per month from April 15 through November 15 each year, provided that lesser rest allowances are approved by the Director at the pilotage association's request, if necessary to provide pilotage without interruption through that period; and

(7) Pilotage-related training.

(b) Peak pilotage demand and the base seasonal work standard are based on averaged available and reliable data, as so deemed by the Director, for a multi-year base period. Normally, the multi-year period is the 10 most recent full shipping seasons, and the data source is a system approved under 46 CFR 403.300. Where such data are not available or reliable, the Director also may use data, from additional past full shipping seasons or other sources, that the Director determines to be available and reliable.

(c) The number of pilots needed in each district is calculated by totaling the area results by district and rounding them to the nearest whole integer. For supportable circumstances, the Director may make reasonable and necessary adjustments to the rounded result to provide for changes that the Director anticipates will affect the need for pilots in the district over the period for which base rates are being established.

(d) The Director projects, based on the number of persons applying under 46 CFR part 401 to become U.S. Great Lakes registered pilots, and on information provided by the district's pilotage association, the number of pilots expected to be fully working and compensated during the first year of the period for which base rates are being established.

§ 404.104 Ratemaking step 4: Determine target pilot compensation.

The Director determines base individual target pilot compensation using a compensation benchmark, set after considering the most relevant currently available non-proprietary information. For supportable circumstances, the Director may make necessary and reasonable adjustments to the benchmark. The Director determines each pilotage association's total target pilot compensation by multiplying individual target pilot compensation by the number of pilots projected under § 404.103(d) of this part.

§ 404.105 Ratemaking step 5: Project return on investment.

The Director calculates each pilotage association's allowed base return on investment by adding the projected adjusted operating expenses from § 404.102 and the total target pilot compensation from § 404.104 of this part, multiplied by the preceding year's average annual rate of return for new issues of high grade corporate securities.

§ 404.106 Ratemaking step 6: Project needed revenue.

The Director calculates each pilotage association's base projected needed revenue by adding the projected adjusted operating expenses from § 404.102 of this part, the total target pilot compensation from § 404.104 of this part, and the projected return on investment from § 404.105 of this part.

§ 404.107 Ratemaking step 7: Initially calculate base rates.

(a) The Director initially calculates base hourly rates by dividing the projected needed revenue from § 404.106 of this part by averages of past hours worked in each district's designated and undesignated waters, using available and reliable data for a multi-year period set in accordance with § 404.103(b) of this part.

(b) If the result of this calculation initially shows an hourly rate for the designated waters of a district that would exceed twice the hourly rate for undesignated waters, the initial designated-waters rate will be adjusted so as not to exceed twice the hourly undesignated-waters rate. The adjustment is a reallocation only and will not increase or decrease the amount of revenue needed in the affected district.

§ 404.108 Ratemaking step 8: Review and finalize rates.

The Director reviews the base pilotage rates initially set in § 404.107 of this part to ensure they meet the goal set in § 404.1(a) of this part, and either finalizes them or first makes necessary and reasonable adjustments to them based on requirements of Great Lakes pilotage agreements between the United States and Canada, or other supportable circumstances. Adjustments will be made consistent with § 404.107(b) of this part.

Dated: 1 March 2016.

J.G. Lantz,

Acting Assistant Commandant for Prevention Policy, U.S. Coast Guard.

[FR Doc. 2016–04894 Filed 3–1–16; 4:15 pm]

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Part III

Department of Transportation

Federal Motor Carrier Safety Administration

49 CFR Parts 380, 383, and 384

Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 380, 383, and 384

[FMCSA–2007–27748]

RIN 2126–AB66

Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators

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

ACTION: Notice of proposed rulemaking (NPRM), request for public comments.

SUMMARY: FMCSA proposes new training standards for certain individuals applying for their initial commercial driver's license (CDL); an upgrade of their CDL (*e.g.,* a Class B CDL holder seeking a Class A CDL); or a hazardous materials, passenger, or school bus endorsement for their license; and a ''refresher'' training curriculum. These individuals would be subject to the proposed entry-level driver training requirements and must complete a course of instruction provided by an entity that: Meets the minimum qualifications for training providers; covers the curriculum; is listed on FMCSA's proposed Training Provider Registry; and submits electronically to FMCSA the training certificate for each individual who completes the training.

This NPRM responds to a Congressional mandate imposed under the Moving Ahead for Progress in the 21st Century Act. The proposed rule is based on consensus recommendations from the Agency's Entry-Level Driver Training Advisory Committee (ELDTAC), a negotiated rulemaking committee which held a series of meetings between February and May 2015. The compliance date of this proposed rule would be three years after the effective date of the final rule.

DATES: You must submit comments on or before April 6, 2016.

ADDRESSES: You may submit comments identified by docket number FMCSA–2007–27748 using any one of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.*
- *Fax:* 202–493–2251.
- *Mail:* Docket Services (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' heading under the **SUPPLEMENTARY INFORMATION** section below for instructions regarding submitting comments. Comments received after the comment closing date will be included in the docket, and we will consider late comments to the extent practicable. FMCSA may, however, issue a final rule at any time after the close of the comment period.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rule, contact Mr. Richard Clemente, Driver and Carrier Operations (MC–PSD) Division, FMCSA, 1200 New Jersey Ave. SE., Washington, DC 20590–0001, by telephone at 202–366–4325, or by email at *MCPSD@dot.gov.* If you have questions about viewing or submitting material to the docket, contact Docket Services, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: This notice of proposed rulemaking (NPRM) is organized as follows:

I. Public Participation and Request for Comments
  A. Submitting Comments
  B. Viewing Comments and Documents
  C. Privacy Act
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III. Abbreviations and Acronyms
IV. Legal Basis for the Rulemaking
V. Regulatory and Legal History
VI. General Discussion of the Proposal
VII. Section-by-Section Explanation of the Proposed Changes
VIII. Regulatory Analyses
  A. E.O. 12866 (Regulatory Planning and Review and DOT Regulatory Policies and Procedures as Supplemented by E.O. 13563)
  B. Regulatory Flexibility Act (Small Entities)
  C. Assistance for Small Entities
  D. Unfunded Mandates Reform Act of 1995
  E. Paperwork Reduction Act (Collection of Information)
  F. E.O. 13132 (Federalism)
  G. E.O. 12988 (Civil Justice Reform)
  H. E.O. 13045 (Protection of Children)
  I. E.O. 12630 (Taking of Private Property)
  J. Privacy
  K. E.O. 12372 (Intergovernmental Review)
  L. E.O. 13175 (Indian Tribal Governments)
  M. E.O. 13211 (Energy Supply, Distribution, or Use)
  N. National Technology Transfer and Advancement Act (Technical Standards)
  O. Environment (NEPA, CAA, E.O. 12898 Environmental Justice)

I. Public Participation and Request for Comments

FMCSA encourages you to participate in this rulemaking by submitting comments and related materials.

A. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (FMCSA–2007–27748), indicate the heading of the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online, by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission. However, see the *Privacy Act* section below.

To submit your comment online, go to *www.regulations.gov,* type the docket number, ''FMCSA–2007–27748'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click the ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party, and click ''Submit.'' If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

Confidential Business Information

Confidential Business Information (CBI) is commercial or financial information that is customarily not made available to the general public by the submitter. Under the Freedom of Information Act, CBI is eligible for protection from public disclosure. If you have CBI that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Accordingly, please mark each page of your submission as ''confidential'' or ''CBI.'' Submissions designated as CBI and meeting the definition noted above will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Brian Dahlin, Chief, Regulatory Analysis Division, 1200 New Jersey Avenue SE., Washington, DC 20590. Any commentary that FMCSA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

FMCSA will consider all comments and material received during the comment period and may change this proposed rule based on your comments.

B. Viewing Comments and Documents

To view comments and any document mentioned in this preamble, go to *www.regulations.gov,* insert the docket number, ''FMCSA–2007–27748'' in the ''Keyword'' box, and click ''Search.'' Next, click the ''Open Docket Folder'' button and choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Services in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

C. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

II. Executive Summary

Purpose and Summary of Major Provisions

A. Purpose of the Entry-Level Driver Training Proposed Rule

The Agency believes this rulemaking would enhance the safety of commercial motor vehicle (CMV) operations on our Nation's highways by establishing a more extensive entry-level driver training (ELDT) protocol and by increasing the number of drivers who receive ELDT. It would revise the standards for mandatory training requirements for entry-level operators of CMVs in interstate and intrastate operations who are required to possess a commercial driver's license (CDL). FMCSA proposes new training standards for certain individuals applying for an initial CDL, an upgrade of their CDL[1] (*e.g.,* a Class B CDL holder seeking a Class A CDL), or a hazardous materials, passenger, or school bus endorsement for their license. Specifically, these individuals would be subject to the proposed ELDT requirements and must complete a course of instruction provided by an entity that (1) meets the minimum qualifications for training providers, (2) covers the curriculum, (3) is listed on FMCSA's proposed Training Provider Registry (TPR), and (4) submits electronically to FMCSA the training certificate for each individual who completes the training.

FMCSA's legal authority to propose this rulemaking is derived from the Motor Carrier Act of 1935, the Motor Carrier Safety Act of 1984, the Commercial Motor Vehicle Safety Act of 1986, and the Moving Ahead for Progress in the 21st Century Act.

B. Summary of Major Provisions

The proposed rule would primarily revise 49 CFR part 380, Special Training Requirements. It would require an individual who must complete the CDL skills test requirements, defined as an ''Entry-Level Driver'', to receive mandatory training. The proposed rule applies to persons who drive, or intend to drive, CMVs in either interstate or intrastate commerce. Military drivers, farmers, and firefighters are generally excepted from the CDL requirements in part 383, and they are excepted from this proposed rule.

The NPRM proposes a Class A and Class B CDL core curriculum; training curricula related to hazardous materials (H); passenger (P); and school bus (S) endorsements; and a ''refresher'' training curriculum. The core, endorsement, and refresher curricula generally are subdivided into theory and behind-the-wheel (BTW) (range and public road) segments. There is no proposed minimum number of hours that driver-trainees must spend on the theory portions of any of the individual curricula. The NPRM proposes that Class A CDL driver-trainees must receive a minimum of 30 hours of BTW training, with a minimum of 10 hours on a driving range. Driving on a public road would also be required, and Class A CDL driver-trainees may fulfill this requirement by either (1) driving 10 hours on a public road, or (2) 10 public road trips (each no less than 50 minutes in duration). Class B CDL driver-trainees must receive a minimum of 15 hours of BTW training, with a minimum of 7 hours of public road driving. And irrespective of the number of hours of BTW training, the training provider must not issue the training certificate unless the student demonstrates proficiency in operating the CMV. The NPRM also proposes that a CDL holder who has been disqualified from operating a CMV must successfully complete refresher training. Training providers must provide instruction on all elements of the applicable curriculum.

The NPRM would apply to entities that train, or expect to train, entry-level drivers, also referred to as herein as driver-trainees. Training providers, must, at a minimum, offer and teach a training curriculum that meets all FMCSA standards for entry-level drivers and must also meet requirements related to: Course administration, qualifications for instructional personnel, assessments, issuance of training certificates, and training vehicles (*i.e.,* equipment). Training providers that meet these requirements would be eligible for listing on FMCSA's TPR and must continue to meet the eligibility requirements in order to stay listed on the TPR. Training providers must also attest that they meet the specified requirements, and in the event of an FMCSA audit or investigation of the provider, must supply documentary evidence to verify their compliance. The NPRM also proposes conforming changes to parts 383 and 384.

The proposed compliance date for this rule is 3 years after the effective date of the final rule, which would provide the States with sufficient time to pass necessary implementing legislation, to modify their information systems to begin recording the training provider's certificate information on the Commercial Driver's License Information System (CDLIS) driver record, and to begin making that information available from the CDLIS driver record. This proposed phase-in period would also allow time for the driver training industry to develop and begin offering training programs that meet the eligibility requirements for listing on the TPR.

Benefits and Costs

Entry-level drivers, motor carriers, training providers, State driver licensing agencies (SDLAs), and the Federal Government would incur costs for compliance and implementation. The costs of the proposed rule include tuition expenses, the opportunity cost of time while in training, compliance audit costs, and costs associated with the implementation of the TPR. As shown in table 1, FMCSA estimates that the 10-year cost of the proposed rule would total $5.55 billion on an undiscounted basis, $4.86 billion discounted at 3%, and $4.15 billion discounted at 7% (all in 2014 dollars). Values in table 1 are rounded to the nearest million.

[1] Class A covers all large, articulated vehicles, usually tractor/trailers Class B vehicles include both large straight trucks and buses.

TABLE 1—TOTAL COST OF THE PROPOSED RULE

[In millions of 2014$]

Year	Undiscounted						Discounted	
	Entry-level drivers	Motor carriers	Training providers	SDLAs	Federal Government	Total	Discounted at 3%	Discounted at 7%
2020	$490	$27	$10	$26	$6	$559	$559	$559
2021	495	27	7	0	1	530	515	495
2022	501	28	8	0	1	538	507	470
2023	506	28	7	0	1	542	496	442
2024	511	28	8	0	1	548	487	418
2025	517	29	7	0	1	554	478	395
2026	522	29	8	0	1	560	469	373
2027	538	29	7	0	1	565	459	352
2028	533	30	8	0	1	572	452	333
2029	539	30	7	0	1	577	442	314
Total	5,142	285	77	26	15	5,545	4,864	4,151
Annualized						555	554	552

The costs presented in table 1 include the costs associated with the S endorsement training requirement of the proposed rule, however the costs of the proposed rule specifically attributable to the proposed S endorsement training requirement were also evaluated separately. Details are presented in the Regulatory Impact Analysis (RIA), which is available in the docket. This separate analysis of the costs of the proposed rule specifically attributable to the proposed S endorsement training requirement was done because Section 32304 of MAP–21 statutorily mandates training for new entry-level drivers who wish to obtain a CDL, or a P endorsement, or an H endorsement, but is silent with respect to the S endorsement. The analysis shows that inclusion of the proposed S endorsement training requirement increases the total cost of the rule by only approximately 0.36%. On an annualized basis at a 7% discount rate, this equates to an increase in the total cost of the rule from $550 million to the $552 million that is shown in Table 1.

This proposed rule would result in benefits to CMV operators, the trucking industry, the traveling public, and to the environment. FMCSA estimated benefits in two broad categories: Non-safety benefits and safety benefits. Training would lead to more efficient driving techniques, resulting in a reduction in fuel consumption and consequently lowering environmental impacts associated with carbon dioxide emissions. Training that promotes safer, more efficient driving has been shown to reduce maintenance and repair costs. Training related to the performance of complex tasks may improve performance; in the context of the training required by this proposed rule, improvement in task performance may reduce the frequency and severity of crashes thereby resulting in safer roadways for all. Table 2 presents the directly quantifiable benefits that FMCSA projects would result from the proposed rule (all in 2014 dollars, values rounded to the nearest million).

TABLE 2—TOTAL QUANTIFIABLE BENEFITS OF THE PROPOSED RULE

[In millions of 2014$]

Year	Undiscounted				Discounted	
	Value of fuel savings	Value of CO_2 reduction [a]	Maintenance and repair cost savings	Total [b]	Discounted at 3%	Discounted at 7%
2020	$75	$13	$44	$132	$132	$132
2021	127	22	75	223	217	209
2022	157	26	91	274	258	241
2023	160	27	92	279	256	231
2024	163	27	94	284	253	220
2025	166	28	95	289	249	210
2026	170	28	96	294	246	201
2027	172	29	97	298	242	191
2028	175	29	98	302	238	182
2029	178	29	99	305	234	173
Total	1,543	258	880	2,680	2,325	1,989
Annualized				268	265	265

Notes:

[a] The monetized benefits associated with reduced CO_2 emissions are discounted at the 3% discount rate in both the ''discounted at 3%'' and ''discounted at 7%'' columns. This is in keeping with the guidance of the Interagency Working Group that developed the OMB guidance on monetizing CO_2 reductions, and is consistent with past USDOT and EPA practices. Further details on the monetization of CO_2 reductions are presented in Section 4.1.2 of the RIA.

[b] Total benefit values may not equal the sum of the components due to rounding (the totals shown in this column are the rounded sum of unrounded components).

The directly quantifiable benefits of the proposed rule that are presented in Table 2 assume a future baseline in which a joint FMCSA/NHTSA Heavy Vehicle Speed Limiters rule would be in effect. This approach was intended to be a conservative assumption, in that it reduces the potential amount of baseline industry fuel consumption from which the possible benefits of reductions in fuel consumption and CO_2 emissions from the proposed ELDT rule may be realized. Because of the uncertainty of when the FMCSA/NHTSA Heavy Vehicle Speed Limiters proposed rule will be published for public comment or how those comments may influence a final rule, an alternative baseline for the proposed ELDT rule in which there would be no Speed Limiters rule, and thus no effect from speed limiters upon baseline industry fuel consumption, was also analyzed. The details regarding this approach and the estimated reductions in fuel consumption and CO_2 emissions of the proposed ELDT rule are presented in the RIA which is available in the docket. This alternative baseline results in slightly higher total quantifiable benefits for the proposed ELDT rule, because any assumed reduction in baseline industry fuel consumption resulting from a Speed Limiters rule would not be present. Table 3 presents a comparison of the total estimated quantifiable benefits of the proposed ELDT rule both with and without a Speed Limiters rule in the baseline. Under such an alternative baseline reflecting no impact from a potential Speed Limiters rule, the total quantifiable benefits from the proposed ELDT rule, on an annualized basis at a 7% discount rate, would increase by $9 million to $274 million from the $265 million that would be realized under a baseline scenario that does incorporate the effects of a Speed Limiters rule. This represents an increase of 3.4% in total quantifiable benefits. Because this 3.4% increase in the total quantifiable benefits is relatively modest, and because the baseline scenario that does incorporate the effects of a Speed Limiters rule is the more conservative assumption as it results in somewhat lower benefits and somewhat higher net costs of the proposed ELDT rule, the quantifiable benefits, net costs, and threshold analysis of the proposed ELDT rule that are presented here represent those that incorporate the effects of a Speed Limiters rule in the baseline.

TABLE 3—COMPARISON OF TOTAL QUANTIFIABLE BENEFITS WITH AND WITHOUT BASELINE ADJUSTMENT FOR SPEED LIMITERS RULE

[In millions of 2014$]

Year	With speed limiters adjustment		Without speed limiters adjustment	
	3% Discount rate	7% Discount rate	3% Discount rate	7% Discount rate
2020	$132	$132	$137	$137
2021	217	209	224	217
2022	258	241	267	249
2023	256	231	265	239
2024	253	220	262	228
2025	249	210	258	218
2026	246	201	255	208
2027	242	191	251	198
2028	238	182	247	189
2029	234	173	243	179
Total	2,325	1,989	2,409	2,062
Annualized	265	265	274	274

While FMCSA believes that the proposed rule would at minimum achieve cost-neutrality, the net of quantified costs and benefits (presented in table 4 below) results in an annualized net cost of $287 million at a 7% discount rate. This estimate is based only on *quantifiable* costs and benefits attributable to this proposed rule; it makes no claims regarding safety benefits which are discussed below.

TABLE 4—NET COST OF THE PROPOSED RULE, ABSENT QUANTIFIABLE SAFETY BENEFITS

[In millions of 2014$]

Year	3% Discount rate	7% Discount rate
2020	$427	$427
2021	298	286
2022	249	229
2023	240	211
2024	234	198
2025	229	185
2026	223	172
2027	217	161
2028	214	151
2029	208	141

TABLE 4—NET COST OF THE PROPOSED RULE, ABSENT QUANTIFIABLE SAFETY BENEFITS—Continued

[In millions of 2014$]

Year	3% Discount rate	7% Discount rate
Total	2,539	2,161
Annualized	289	287

The lack of data directly linking training to improvements in safety outcomes, such as reduced crash frequency or severity, posed a challenge to the Agency throughout the development of the RIA. Discussion regarding the efforts undertaken by FMCSA and its partners in the negotiated rulemaking process to establish such a quantitative link is presented in the RIA. Although no empirical evidence linking safety to training was identified in this process, there remains a strongly held belief among stakeholders—including all who participated in the negotiated rulemaking—and the Agency that safety-oriented training *does* improve safety outcomes. The long-standing industry practice of providing such training to drivers—often at carriers' expense—supports the notion that such training is not without merit. In the absence of a clear empirical link between training and safety, FMCSA followed the guidance of the Office of Management and Budget (OMB) in its Circular A–4 to perform a threshold analysis to determine the degree of safety benefits that would need to occur as a consequence of this proposed rule in order for the rule to achieve cost-neutrality.[2] As documented in detail in the RIA, an 8.15% improvement in safety performance (that is, an 8.15% reduction in the frequency of crashes involving those new entry-level drivers who would receive additional pre-CDL training as a result of this proposed rule during the period for which the benefit of training remains intact) is necessary to offset the $287 million (annualized at 7%) net cost of the rule.

Table 5 below presents the projected number of crash reductions involving new entry-level drivers that must occur in each of the 10 years and in aggregate, in order to offset the net cost ($287 million annualized at 7%). To be clear, it is the sum of the monetized value of *all columns* of table 5—not the sum of the monetized value of any individual column—that results in cost-neutrality.

TABLE 5—CRASH REDUCTIONS INVOLVING NEW ENTRY-LEVEL DRIVERS, BY TYPE, NECESSARY TO ACHIEVE COST-NEUTRALITY

Year	Number of fatal crashes	Number of injury crashes	Number of property damage only (PDO) crashes
2020	6	127	421
2021	10	211	702
2022	12	253	842
2023	12	253	842
2024	12	253	842
2025	12	253	842
2026	12	253	842
2027	12	253	842
2028	12	253	842
2029	12	253	842
Average (rounded to nearest whole number)	11	236	786
Total	115	2,364	7,857

III. Abbreviations and Acronyms

Full name	Abbreviation or acronym
American Association of Motor Vehicle Administrators	AAMVA.
Americans with Disabilities Act	ADA.
Anti-lock Braking Systems	ABS.
Assessing the Adequacy of Commercial Motor Vehicle Driver Training	Adequacy Report.
Advocates for Highway and Auto Safety	Advocates.
Advance Notice of Proposed Rulemaking	ANPRM.
American Trucking Associations	ATA.
American Transportation Research Institute	ATRI.
Behind the wheel	BTW.
Clean Air Act	CAA.

[2] Office of Management and Budget. Circular A–4. *Regulatory Analysis.* September 17, 2003. Available at: *https://www.whitehouse.gov/omb/circulars_a004_a-4/* (accessed July 23, 2015).

Full name	Abbreviation or acronym
Categorical Exclusion	CE.
Commercial Driver's License	CDL.
Commercial Driver's License Information System	CDLIS.
Code of Federal Regulations	CFR.
Commercial Learner's Permit	CLP.
Commercial Motor Vehicle	CMV.
Commercial Motor Vehicle Safety Act of 1986	CMVSA.
Compliance, Safety and Accountability	CSA.
Commercial Vehicle Safety Alliance	CVSA.
Commercial Vehicle Training Association	CVTA.
U.S. Court of Appeals for the District of Columbia Circuit	DC Circuit.
Director, Office of Carrier, Driver, and Vehicle Safety Standards	Director.
U.S. Department of Transportation	DOT.
U.S. Department of Education	ED.
Entry-Level Driver Training	ELDT.
Entry-Level Driver Training Advisory Committee	ELDTAC.
Executive Order	EO.
Federal Highway Administration	FHWA.
Federal Motor Carrier Safety Administration	FMCSA.
Federal Motor Carrier Safety Regulations	FMCSRs.
Gross Vehicle Weight Rating	GVWR.
Hazardous Materials Endorsement	H.
Hazardous Materials	HM.
Hazardous Materials Safety Permit	HMSP.
Hours of Service	HOS.
Longer Combination Vehicle	LCV.
Moving Ahead for Progress in the 21st Century Act	MAP–21.
Motor Carrier Safety Act of 1984	MCSA.
Motor Carrier Safety Advisory Committee	MCSAC.
North American Fatigue Management Program	NAFMP.
National Association of Publicly Funded Truck Driving Schools	NAPFTDS.
National Association of Small Trucking Companies	NASTC.
National Environmental Policy Act	NEPA.
National Governors' Association	NGA.
National Highway Traffic Safety Administration	NHTSA.
Notice of Proposed Rulemaking	NPRM.
National Transportation Safety Board	NTSB.
Owner-Operator Independent Drivers Association, Inc.	OOIDA.
Office of Management and Budget	OMB.
Out-of-service	OOS.
Pipeline and Hazardous Materials Safety Administration	PHMSA.
Privacy Impact Assessment	PIA.
Paperwork Reduction Act	PRA.
Professional Truck Driver Institute	PTDI.
State Driver Licensing Agency	SDLA.
Truckload Carriers Association	TCA.
Training Provider Registry	TPR.
Transportation Research Board	TRB.
United States Code	U.S.C.

IV. Legal Basis for the Rulemaking

This NPRM is based on the authority of the Motor Carrier Act of 1935, the Motor Carrier Safety Act of 1984, and the Commercial Motor Vehicle Safety Act of 1986 (CMVSA), as described below. It also implements section 32304 of the Moving Ahead for Progress in the 21st Century Act (MAP–21) requiring the establishment of minimum driver training standards for certain individuals required to hold a CDL. In addition, the proposed rule responds to the March 10, 2015, order of the U.S. Court of Appeals for the District of Columbia Circuit (DC Circuit), referenced further below. This NPRM reflects the recommendations of FMCSA's Entry Level Driver Training Advisory Committee (ELDTAC), comprised of 25 industry stakeholders and FMCSA, convened earlier this year through a negotiated rulemaking, as discussed below.

The Motor Carrier Act of 1935, codified at 49 U.S.C. 31052 (b), provides that ''The Secretary of Transportation may prescribe requirements for—(1) qualifications and maximum hours of service of employees of, and safety of operation and equipment of, a motor carrier; and (2) qualifications and maximum hours of service of employees of, and standards of equipment of, a motor private carrier, when needed to promote safety of operation.'' This NPRM would improve the ''safety of operation'' of entry-level ''employees'' who operate CMVs, as defined in 49 CFR 383.5, by enhancing the training they receive before obtaining or upgrading a CDL.

The Motor Carrier Safety Act of 1984 (MCSA), codified at 49 U.S.C. 31136(a), provides concurrent authority to regulate drivers, motor carriers, and vehicle equipment. It requires the Secretary of Transportation to prescribe regulations for CMV safety to ensure that (1) CMVs are maintained, equipped, loaded, and operated safely; (2) responsibilities imposed on CMV drivers do not impair their ability to operate the vehicles safely; (3) drivers' physical condition is adequate to operate the vehicles safe; (4) the

operation of CMVs does not have a deleterious effect on the drivers' physical condition; and (5) CMV drivers are not coerced by a motor carrier, shipper, receiver, or transportation intermediary to operate a CMV in violation of regulations promulgated under this section, or chapter 51 or chapter 313 of this title (49 U.S.C. 31136(a)).

This NPRM is based specifically on 49 U.S.C. 31136(a)(1), requiring regulations to ensure that CMVs are ''operated safely,'' and secondarily on section 31136(a)(2), requiring that regulations ensure that ''the responsibilities imposed on operators of commercial motor vehicles do not impair their ability to operate the vehicles safely.'' The proposed rule enhances the training of entry-level drivers to further ensure that they operate CMVs safely and meet the operational responsibilities imposed on them.

This rulemaking does not directly address medical standards for drivers (section 31136(a)(3)) or possible physical effects caused by driving CMVs (section 31136(a)(4)). However, to the extent that the various curricula proposed today address health and wellness issues that facilitate the safe operation of CMVs (section 31136(a)(3)), has been considered and addressed. Also, to the extent that curriculum addresses idling and related health effects (section 31136(a)(4)), has been considered and addressed. FMCSA does not anticipate that drivers will be coerced (section 31136(a)(5)) as a result of this rulemaking. However, we note that the training curricula proposed for Class A and B CDLs and for refresher training includes a unit addressing the right of an employee to question the safety practices of an employer without incurring the risk of losing a job or being subject to reprisal simply for stating a safety concern. Driver-trainees will also be instructed in procedures for reporting to FMCSA incidents of coercion from motor carriers, shippers, receivers, or transportation intermediaries.

CMVSA provides, among other things, that the Secretary of Transportation shall prescribe regulations on minimum standards for testing and ensuring the fitness of an individual operating a commercial motor vehicle (49 U.S.C. 31305(a)). The requirement of today's proposed rule that States test only those entry-level CDL applicants who have completed the training proposed by this NPRM falls within the ''minimum standards for testing'' authorized by the CMVSA. The training requirement itself, as described below, was created by section 32304 of MAP–21.

MAP–21 requires DOT to regulate ELDT. Public Law 112–141, section 32304, 126 Stat. 405, 791 (July 6, 2012). MAP–21 modified 49 U.S.C. 31305 by adding paragraph (c), which requires FMCSA to issue ELDT regulations. The regulations must address the knowledge and skills necessary for safe operation of a CMV that must be acquired before obtaining an initial CDL or upgrading from one class of CDL to another. MAP–21 also requires that training apply to CMV operators seeking passenger or hazardous materials endorsements (49 U.S.C. 31305(c)(1) and (2)). Although the statute specifically requires that the regulations include both classroom and behind-the-wheel instruction, MAP–21 otherwise allows FMCSA broad discretion to define the training methodology, standards, and curriculum necessary to satisfy the ELDT mandate.

MAP–21 clearly establishes the scope of operations to be covered by this rulemaking by requiring that ELDT regulations apply to prospective CDL holders operating in both interstate and intrastate commerce. The ELDT requirements are codified in section 31305, and the definition of a CMV in section 31301(4) therefore applies to ELDT. The definition of ''commerce'' in section 31301(2) covers both interstate commerce (paragraph A) and intrastate commerce (paragraph B). ELDT, as a CDL-related mandate, therefore applies to interstate and intrastate commerce.

The ELDTAC recommended the inclusion of a school bus (S) endorsement in the NPRM, although MAP–21 did not specifically mandate training for this endorsement. The current FMCSRs require that, in order for a driver to obtain the S endorsement, he or she must first obtain either a Class A or Class B CDL, as well as pass the knowledge and skills test for a passenger vehicle (P) endorsement (49 CFR 383.123). FMCSA believes that, since Congress recognized the importance of entry-level training in the operation of passenger vehicles by including the P endorsement within the scope of the MAP–21 mandate in section 31305(c), the inclusion of the S endorsement training curriculum in the NPRM is entirely consistent with that mandate.

While 49 U.S.C. 31305(c) clearly applies to entry-level CMV drivers—understood as new drivers—FMCSA believes that refresher training is necessary for essentially the same reason. CDL holders who have been disqualified from operating a CMV, have either never learned the necessary skills for safe operation of a CMV or have allowed those skills to deteriorate to the point where they have no greater mastery of operational safety than individuals who have not previously driven a CMV. The Agency believes that requiring refresher training for those drivers is well within the purpose and intent of the training mandate required in 49 U.S.C. 31305(c).

Before prescribing any regulations, FMCSA must consider their ''costs and benefits'' (49 U.S.C. 31136(c)(2)(A) and 31502(d)). Those factors are discussed in the RIA associated with this rulemaking.

V. Regulatory and Legal History

Initial Efforts To Address ELDT

In the early 1980s, the Federal Highway Administration's (FHWA) Office of Motor Carriers, the predecessor to FMCSA, determined that there was a need for technical guidance in the area of truck driver training. This need was based on a Government Accountability Office report stating that a large percentage of truck crashes are due to driver error.[3] Research further showed that few driver training institutions then offered a structured curriculum or a standardized training program, and also showed that, for motorcoaches and school buses, nearly the entire capacity for entry-level training was provided by the fleet operators, and not by training schools.

FHWA published a ''Model Curriculum for Training Tractor-Trailer Drivers'' (Model Curriculum) in 1985. The Model Curriculum provided suggestions and recommendations for training providers covering curriculum, facilities, vehicles, instructor qualifications and hiring practices, graduation requirements, and student placement. Curriculum content addressed basic operation, safe operating practices, advanced operating procedures, vehicle maintenance, and non-vehicle activities (*e.g.,* handling and documenting cargo). The Model Curriculum reflected a consensus among experts at the time of its publication.

The 1985 Model Curriculum recommended the equivalent of a total of 148 hours[4] of training, including driving-range time and on-road BTW training. In 1986, the motor carrier, truck driver training school, and insurance industries created the Professional Truck Driver Institute

[3] GAO/RCED–89–163, Truck Safety: Information on Driver Training, August 1989.

[4] The original Model Curriculum referred to a total of 320 hours. However, these hours of training include periods when the student is not receiving individual instruction, such as while waiting his or her turn to use an available truck to practice driving skills.

(PTDI) to certify high-quality training programs offered by training institutions. The Model Curriculum, as updated over time, remains as the centerpiece of many training programs currently offered. It provided the starting point for the ELDT curricula requirements proposed in this NPRM.

CMVSA, which created the CDL program, defined a CMV, in part, as a vehicle operating in ''commerce,'' a term separately defined to cover both interstate commerce and operations that ''affect'' intrastate commerce (49 U.S.C. 31301(2) and (4)). CMVSA directed the Agency to establish minimum Federal standards that States must meet when testing and licensing CMV drivers. The goal was to ensure that drivers of large trucks and buses possess the knowledge and skills necessary to operate safely on public highways. Until 2012, however, as discussed further below in this section, Congress did not specify whether an ELDT rulemaking should be limited to CMV drivers in interstate commerce, or whether it should also encompass CMV drivers operating in intrastate commerce.

In accordance with part 383, all drivers of CMVs must possess a valid CDL. In addition to passing the CDL knowledge and skills tests required for the basic vehicle group, all persons who operate or anticipate operating double/triple trailers, passenger vehicles, tank vehicles, vehicles transporting hazardous materials, or school buses must obtain vehicle-specific endorsements under § 383.93(3)(b). The driver is required to pass a knowledge test for each endorsement, plus a skills test to obtain a passenger endorsement or a school bus endorsement.

By 1991, Congress became concerned about the quality and inconsistency of CDL-related training individuals were receiving prior to obtaining a CDL. As a result, section 4007(a)(1) of the Intermodal Surface Transportation Efficiency Act (ISTEA) required FHWA to: (1) Study the effectiveness of private sector training efforts and to report its results to Congress; and (2) to commence a rulemaking on the need to require training of all entry-level drivers of CMVs (Pub. L. 102–240, 105 Stat. 1914, 2151, Dec. 19, 1991).

In 1992, the FHWA began to examine the effectiveness of private sector training. A 1995 report titled, ''Assessing the Adequacy of Commercial Motor Vehicle Driver Training'' (the Adequacy Report) concluded, among other things, that effective ELDT needs to include BTW instruction. While the Adequacy Report recognized that ELDT seemed intuitively beneficial, it also acknowledged the lack of quantitative data linking driver training with positive safety outcomes. The Adequacy Report did not reach a conclusion as to whether ''testing-based,'' ''training-based,'' or ''performance-based'' approaches to ELDT would be more effective. The Secretary of Transportation submitted this report to Congress in 1996. A copy of the Adequacy Report is included in the docket for this rulemaking.

In 1993, pursuant to section 4007(a)(2) of ISTEA, FHWA began a rulemaking to address the need to require training of all entry-level CMV drivers. On June 21, 1993, FHWA published an ANPRM titled ''Commercial Motor Vehicles: Training for All Entry Level Drivers'' (58 FR 33874). The NPRM asked 13 questions pertaining to the adequacy of training standards, curriculum requirements, the requirements for obtaining a CDL, the definition of ''entry-level driver'' training, training pass rates, and costs.

2003 NPRM/2004 Final Rule

In November 2002, several organizations filed a petition for a writ of mandamus in the DC Circuit seeking an order directing the DOT to promulgate various regulations, including one establishing ELDT (petition for a writ of mandamus and for *Relief from Unlawfully Withheld Agency Action, In re Citizens for Reliable and Safe Highways,* No. 02–1363 (D.C. Cir.)). As part of a settlement agreement reached in February 2003, DOT agreed to issue a final rule on minimum training standards for entry-level CMV drivers by May 31, 2004 (*Settlement Agreement, In re Citizens for Reliable and Safe Highways,* No. 02–1363 (D.C. Cir.)). Both of these documents are available in the docket for this rulemaking.

The FMCSA published an NPRM on Friday, August 15, 2003, which proposed training for entry-level drivers based on three main principles (68 FR 48863). First, the NPRM focused on the types of drivers addressed in the Adequacy Report; *i.e.,* only drivers in the heavy truck, motorcoach, and school bus industries. Second, the NPRM focused on drivers who operate in interstate commerce and therefore are subject to MCSA. Third, the Agency limited the NPRM to the following areas: (1) Driver medical qualifications and Federal drug and alcohol testing requirements, (2) driver hours of service limits, (3) driver wellness, and (4) whistleblower protections. The Agency believed that training focusing on these four areas would establish an adequate baseline for training entry-level CMV drivers at a reasonable cost. The NPRM did not specify a required number of hours for the training or propose requirements pertaining to the type of training. The Agency published a final rule on May 21, 2004, that included the four elements proposed in the NPRM (69 FR 29384).

In 2005, three parties petitioned the D.C. Circuit for review of the 2004 rule. The Court held that the 2004 final rule was arbitrary and capricious because FMCSA ignored the finding of the Adequacy Report that BTW training was necessary and remanded the rule to the Agency for further consideration (*Advocates for Highway and Auto Safety* v. *Federal Motor Carrier Safety Administration,* 429 F.3d 1136 (D.C. Cir. 2005) (*Advocates I*). The Court did not vacate the 2004 final rule.

2007 NPRM

In response to the Court's decision in *Advocates I,* FMCSA published an NPRM on December 26, 2007, that proposed requiring both classroom and BTW training from an accredited institution or program (72 FR 73226). The NPRM generated more than 700 public comments, which varied widely regarding the necessity and efficacy of the proposed ELDT program elements. While most commenters expressed support for the ELDT concept, they had divergent views on several of the proposed rule's key provisions: (1) Hours-based versus ''performance-based'' driver training, (2) accreditation, (3) passenger driver training, and (4) post-CDL training.

Hours-Based vs. ''Performance-Based'' Driver Training

Several industry organizations expressed opposition to the proposed requirements of a specific minimum number of training hours. Instead, these commenters generally supported a performance-based approach to training that would allow an individual to move through the training program at his or her own pace. Essentially, a driver who demonstrated mastery of one skill would be able to move to the next skill. The driver would not have to repeat continually or practice a skill for a prescribed amount of time—2 hours, for example—if the driver could master the skill in 20 minutes. However, among the various comments expressing support for a ''performance-based'' approach, there was no consistent interpretation of the term.

Other commenters, however, supported a minimum hours-based approach to training. They stated that FMCSA must specify the minimum number of instructional hours in order to be consistent with the original Model

Curriculum. Additionally, some supporters of an hours-based approach believed that the Agency's proposal did not include sufficient hours (particularly BTW hours) to train a driver adequately. Finally, other commenters suggested a hybrid of the hours-based and ''performance-based'' approaches.

Third-Party Accreditation

The 2007 NPRM proposed that all commercial driver-training schools be accredited by an agency recognized by either the U.S. Department of Education (ED) or the Council on Higher Education Accreditation. Most commenters opposed the accreditation proposal because they claimed it is long and costly and would not necessarily result in better training of the students because the accreditation is not ''program specific.'' In other words, the training institution may obtain accreditation, but the accreditation would not be specific to the driver training program's course content. They argued that accreditation might restrict the number of schools where drivers could receive training.

Alternatives suggested included allowing training institutions to self-certify, subject to Federal or other oversight, or permitting training institutions to voluntarily obtain third-party certification or accreditation. However, other commenters believed that even stricter control of training schools should be exercised by the Federal and/or State governments.

Passenger Driver Training

Commenters from the motorcoach industry stated that they were an ''afterthought'' in the NPRM. Specifically, they stated that there was no mention of the Model Motorcoach Driver Training Curriculum in the proposed rule. One motorcoach company asserted that its in-house training program was much more rigorous than the Agency proposal and that it continually tested and re-trained its drivers. Others believed that the proposed training program would have particularly adverse consequences for the motorcoach industry as few institutions offered training specific to that segment of the industry.

Post-CDL Training

Some commenters suggested that the Agency consider regulatory actions beyond what was proposed in the 2007 NPRM. For example, several individuals and organizations believed FMCSA should assess the merits of implementing a graduated CDL system approach. This concept would involve placing limits on the operations of new CDL holders for certain periods of time until the drivers obtain enough experience to operate without restrictions or limitation. Specifically, such a concept would require that the new CDL holder work under the supervision of an experienced driver or mentor as part of a team operation before being allowed to drive alone. Other commenters stressed that their companies are doing continuous training/testing and that re-training of individuals should be required. As proposed, the 2007 NPRM would have required training before an individual obtained a CDL; the ''finishing training'' advocated by some commenters was not discussed in the NPRM.

The Agency ultimately withdrew the 2007 NPRM for a number of reasons including: Sharply divided public comments; feedback from participants in the Agency's two public ELDT listening sessions held in 2013; recommendations by the Motor Carrier Safety Advisory Committee (MCSAC), noted below; [5] and the new requirements imposed by MAP–21, discussed below (78 FR 57585, September 19, 2013).

MAP–21 Requirements

Section 32304 specifically mandates that DOT issue training regulations that (1) address the knowledge and skills needed for safe operation of a CMV, (2) address the specific training needs of those seeking hazardous materials and passenger endorsements, (3) create a means of certifying that an applicant for a CDL meets Federal ELDT requirements, and (4) require training providers to demonstrate that their training meets uniform Federal standards.

After Congress enacted MAP–21, FMCSA requested that MCSAC consider the history of the ELDT issue, including legislative, regulatory and research background, and identify ideas and concepts the Agency should consider in moving forward with a rulemaking to implement the MAP–21 requirements. MCSAC issued its letter report in June 2013.

ELDT Negotiated Rulemaking/ Advocates II

On August 19, 2014, FMCSA formally announced that it was considering addressing the rulemaking mandated by MAP–21 through a negotiated rulemaking (79 FR 49044). Negotiated rulemaking is a process which brings together representatives of various interest groups and a federal agency to negotiate the text of a proposed rule. The goal of a negotiated rulemaking proceeding is for the Committee to reach consensus on the text of a proposed rule. The Agency retained a neutral convener, as authorized by the Negotiated Rulemaking Act (5 U.S.C. 563(b)) to impartially assist the Agency in determining whether establishment of a negotiated rulemaking would be feasible and appropriate. To that end, the convener interviewed a broad range of stakeholders concerning ELDT.

On September 18, 2014, FMCSA and DOT were sued in a mandamus action requesting that the D.C. Circuit order the Agency to publish a proposed rule on ELDT in 60 days and a final rule within 120 days of the Court's order (*In Re Advocates for Highway and Auto Safety, the International Brotherhood Teamsters; and Citizens for Reliable and Safe Highways* v. *Anthony Foxx, Secretary of the United States Department of Transportation, et al.* (No. 14–1183, D.C. Circuit (2014)) (*Advocates II*). This document is available in the docket for this rulemaking.

On November 26, 2014, the convener submitted his report to the Agency concluding that a negotiated rulemaking was feasible and appropriate. The convening report is available in the docket for this rulemaking. In December 2014, FMCSA announced its intention to establish a negotiated rulemaking committee to negotiate and develop proposed regulations to implement the MAP–21 requirements concerning ELDT for drivers operating CMVs in interstate or intrastate commerce. At that time, FMCSA also stated its intention to finish the negotiated rulemaking process in the first half of 2015, followed by publication of an NPRM the same year and a final ELDT rule in 2016 (79 FR 73274, December 10, 2014). The Agency also described the issues to be addressed by the ELDTAC, interests likely to be significantly affected by the rule, proposed various organizations for membership, and explained how a person may apply or nominate another person for membership on the committee, as required by the Negotiated Rulemaking Act. The FMCSA solicited public comment on the proposal to establish the committee and the proposed membership of the negotiated rulemaking committee. The FMCSA considered the comments and applications submitted, and determined that a negotiated rulemaking committee could adequately represent the interests that would be significantly affected by a proposed rule, and that it was feasible and appropriate to establish the

[5] Both available in the docket for this rulemaking, FMCSA–2007–27748. The listening session took place in January and March of 2013.

ELDTAC. Next, FMCSA established a charter under the Federal Advisory Committee Act, 5 U.S.C. App. 2, under which it subsequently convened the ELDTAC (79 FR 73273, 73275).

On February 12, 2015, the Agency published a **Federal Register** notice listing the ELDTAC member organizations [6] as required by the Negotiated Rulemaking Act (80 FR 7814). The ELDTAC, composed of FMCSA and a cross-section of 25 representatives from motor carrier transportation, highway safety, and driver training organizations, met for six two-day negotiating sessions starting in February until reaching consensus in May 2015. The ELDTAC meeting minutes and other documentation are available at *www.eldtac.fmcsa.dot.gov* and in the docket for this rulemaking.

On March 10, 2015, the court in *Advocates II* ordered that the petition for writ of mandamus be held in abeyance pending further order of the court to permit the DOT to issue, by September 30, 2016, final regulations pursuant to MAP–21. Petitioners to the lawsuit agreed to participate in the negotiated rulemaking process to collaborate on the drafting of an NPRM.

A consensus agreement of the ELDTAC,[7] including FMCSA as a party, was reached on May 29, 2015. In this NPRM, FMCSA has followed the consensus agreement ''to the maximum extent possible consistent with its legal obligations'' (5 U.S.C 563 (a)(7)).

ELDTAC Consensus Agreement (Consensus Agreement) [8]

At the ELDTAC's final session in May 2015, the Committee unanimously approved a final package of recommendations, as set forth in the Consensus Agreement, on which this NPRM is based. The key terms/concepts of the Consensus Agreement are:

- Beginning on the compliance date of the rule, no ''Entry-Level Driver'' may take a CDL skills test to receive a Class A CDL, Class B CDL, Passenger Bus endorsement, School Bus endorsement, or Hazardous materials endorsement unless he/she has successfully completed a training program that (1) is provided by a Training Provider who appears on FMCSA's TPR, and (2) is appropriate to the license/endorsement for which that person is applying.
- The ELDTAC approved proposed curricula for Class A CDL, Class B CDL, Passenger Bus endorsement, School Bus endorsement, Hazardous materials endorsement, and Refresher training.
- The ELDTAC approved proposed curricula for Class A and Class B training programs generally sub-divided into theory and BTW segments, with BTW driving occurring both on a ''range'' (any protected area not involving a public road) or a public road.
  - Theory may be taught either online or in a classroom. The ELDTAC agreed not to propose prescribing the length of time to be spent on theory/knowledge instruction. The training provider would administer a written knowledge assessment, which would provide a satisfactory test of competence in the area of instruction.
  - BTW instruction (range and road):
    - Class A CDL trainees would be required to receive a minimum of 30 hours of BTW with a minimum of 10 hours spent on a ''range'' (which may be any suitable area not on public roads), and 10 hours driving on a public road or 10 public road trips (no less than 50 minutes each). A 50-minute training session (''academic hour'') would count as one hour for purposes of this requirement. The training provider will determine how the remaining 10 hours of BTW training will be spent (*i.e.,* whether on a range or public road, or some combination of the two).
    - Class B CDL trainees would be required to receive a minimum of 15 hours of BTW (range and public road) driving, with a minimum of 7 hours of road driving. Again, a 50-minute training session (''academic hour'') would count as one hour under this requirement. Training providers may determine how the remaining 8 hours of BTW training are spent, as long as the range curriculum, as set forth below, is covered.
- These proposed requirements would apply to individuals who obtain the CLP on or after the compliance date. However, the new requirements would not apply to individuals—such as military drivers— for whom 49 CFR part 383 gives States the discretion to waive the CDL skills test. Any individual who fails to obtain the CDL within 360 days after obtaining a CLP would be required to complete a full ELDT course again following application for a new CLP.
- An individual holding a CDL that has been canceled or revoked by the State of issuance—and would thus be required to re-take a State-administered CDL exam—would not be required to re-take a full ELDT course as a condition of taking such exam. However, any individual whose CDL has been canceled or revoked for a highway-safety related reason would be required to complete refresher training from a provider listed on the TPR prior to re-taking the State CDL exam to re-instate his or her CDL Class A or Class B license.
- Once such refresher training is completed, the training certificate would be transmitted from the training provider to FMCSA, and the Agency would electronically transmit the certificate to the SDLA via the Commercial Driver's License Information System (CDLIS). The rule would include an explicit requirement for SDLAs to administer a CDL skills test to these individuals, but only if there is an electronic training certificate on file with the SDLA.
- To become an FMCSA-registered training provider, a person or institution would have to meet the applicable FMCSA's Eligibility Requirements for Training Providers, and complete and submit (online) a Training Provider Identification Report affirming under penalties of perjury that such provider will teach the FMCSA-prescribed curriculum that is appropriate for that license or endorsement and that such provider meets the eligibility requirements. Training providers that meet these requirements would be placed on FMCSA's TPR.
- The ELDTAC approved two sets of Eligibility Requirements that training providers would meet in order to appear on the TPR. One set of proposed requirements would apply to in-house

[6] The ELDTAC members are: FMCSA, Advocates for Highway and Auto Safety, American Association of Motor Vehicle Administrators, American Bus Association, Paraprofessional and School-Related Personnel, American Federation of Teachers (AFL–CIO), Amalgamated Transit Union (AFL–CIO), American Trucking Associations, Citizens for Reliable and Safe Highways, Commercial Vehicle Safety Alliance, Commercial Vehicle Training Association, Great West Casualty Company, Greyhound Lines, Inc., International Brotherhood of Teamsters, Massachusetts Registry of Motor Vehicle Division, Massachusetts Department of Transportation, National Association of Publicly Funded Truck Driving Schools, National Association of Small Trucking Companies, National Association of State Directors of Pupil Transportation Services, National School Transportation Association, Owner-Operator Independent Drivers Association, Professional Truck Drivers Institute, Stevens Transport, Spoon Trucking, Truckload Carriers Association, Truck Safety Coalition, United Motorcoach Association, and Women in Trucking.

[7] *http://www.fmcsa.dot.gov/eldtac* (providing comprehensive documentation regarding all negotiated rulemaking meetings leading to the consensus agreement, including committee ground rules, ELDTAC members, agendas, meeting minutes and working documents).

[8] Written Statement of the Entry-Level Driver Training Advisory Committee, Consensus Recommendation on Rule for Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators, Richard W. Parker, Facilitator, June 15, 2015.

or school training providers that train, or expect to train, more than three drivers per year, while the other would pertain to small business or for-hire training providers that train, or expect to train, three or fewer drivers per year. All training providers would complete the Training Provider Identification Report as part of their application for registration.

- The ELDTAC agreed that theory and BTW training may be delivered by separate providers.
- The ELDTAC approved FMCSA's draft regulatory text setting forth the general requirements for training providers listed on FMCSA's TPR.
- The compliance date of the rule would be three years from the effective date of the final rule.

Although the ELDTAC approved the consensus agreement unanimously, two parties formally dissented (as permitted by the ground rules for the negotiated rulemaking) on a single issue, requiring a minimum number of hours for BTW (range and road) for Class A training. A more detailed discussion of the ELDTAC's deliberations regarding the hours-based approach for BTW, including the dissenting comments, is provided below in the ''General Discussion of the Proposal'' section.

Issues Left to the Agency's Discretion by ELDTAC

Several items were discussed by the Committee, but left to the Agency's discretion. These include:

- The impact of serious traffic violations on an individual's eligibility to be a BTW training instructor.
- Required record retention period for training providers listed on the TPR.
- Finalizing the Training Provider Identification Report requirements.

The Committee agreed that a BTW training instructor's driving record is relevant to his or her overall qualification, but left to FMCSA the decision on how long he or she must have a ''clean'' driving record. Accordingly, BTW training instructors, during the two years prior to engaging in BTW instruction, must not have had any CMV-related convictions for the offenses identified in § 383.51(b) through (e). FMCSA invites comment on this proposed driver training qualification.

ELDTAC briefly discussed how long training providers would be required to retain training records, but ultimately left the decision to the Agency. FMCSA proposes that the records be kept for three years after the date they are created, consistent with the retention requirements in § 391.51(d), General Requirements for Driver Qualification Files.

ELDTAC reviewed and commented on a draft version of the Training Provider Identification Report [to be attached as an Appendix] to be used by training providers seeking to be listed on the TPR. The Agency made minor changes to the design and content of the form to reflect the comments received during the ELDTAC's deliberations.

Necessary Conforming Changes Made by the Agency

After the Agency began using the consensus of the Committee to form the basis of the proposed rule, the Agency found that there was a need for certain conforming changes. These include:

- State reinstatement of a CDL for the BTW portion of refresher training.
- A disqualification for refresher training.
- Use of a written assessment by training providers that provide theory training to three or fewer driver-trainees annually.
- Changes made to hazardous materials endorsement curriculum to be consistent with existing regulations.
- Other non-substantive or editorial changes.

The Agency proposes a conforming change related to the refresher training curriculum, which includes a BTW component. The completion of the BTW portion of the refresher training implicitly requires that driver-trainees be licensed to drive a CMV on a range or public road. Accordingly, we propose that if a CDL holder has been disqualified from operating a CMV under § 383.51(b) through (e), the State would reinstate the driver-trainee's CDL solely for the limited purpose of completing the BTW portion of the refresher training curriculum in § 380.625. The State may not restore full CMV driving privileges until the disqualification period is completed and the State receives notification, through the process described below, that the driver successfully completed refresher training. FMCSA specifically invites comment on the practical implications of implementing this proposed requirement.

The Agency modified the ELDTAC language concerning when a CDL holder would be required to take refresher training. In lieu of the revocation or cancelation of a CDL for highway safety related reasons by the State of issuance as a trigger for refresher training, the Agency proposes a disqualification under § 383.51(b) through (e) as the sole standard for requiring refresher training. This change would ensure consistency among the States in determining when refresher training is required. FMCSA is using this criteria for both when a CDL holder is required to take refresher training and for determining the qualification of a BTW instructor. The Agency requests comments on these changes. Additionally, FMCSA invites comment on whether a driver disqualified under § 383.52 should also be required to complete refresher training before his or her CDL is reinstated.

In reviewing the supporting documentation for the consensus agreement, FMCSA noted that training providers that provide theory training to three or fewer driver-trainees annually are not explicitly required to assess the driver-trainee's knowledge proficiency by using a written or electronic format (see annex 8, page 53 of the Consensus Agreement). The Agency believes, however, that a written or electronic assessment of a driver-trainee's proficiency by all training providers is necessary in order to create a record verifying that the training provider followed the applicable theory curriculum requirements; therefore, it includes this requirement in the NPRM. The Agency requests comment on this proposed clarification.

FMCSA also revised the description of training providers who train or expect to train three or fewer driver-trainees per year by deleting ''small business or for-hire'' but maintained the general concept as developed by the ELDTAC. We concluded that the deleted language detracted from the clear ''dividing-line'' between training entities established by the ELDTAC: Those entities that train three or fewer driver-trainees or those that train more than three.

Additionally, FMCSA made editorial changes to certain units in the H endorsement curriculum. The Agency changed the name of the ''Cargo Tank'' unit to ''Bulk Packages''; and edited the ''Loading and Unloading HM'' unit to more accurately reflect the range of transportation containers addressed in current regulations (49 CFR part 177).

The six driver training curricula proposed in this NPRM were drafted by the ELDTAC. The Agency made non-substantive conforming editorial changes to certain portions of the curricula solely for purposes of clarity and consistency or to eliminate duplication. For example, the ''accident procedures'' unit of the Class A and B curricula has been removed because all of the requirements are set forth in the ''post-crash procedures'' units of those same curricula.

VI. General Discussion of the Proposal

MAP–21 mandated that the FMCSA issue regulations to establish minimum entry-level training requirements for *all* initial interstate and intrastate CDL applicants, CDL holders seeking license upgrades, and those seeking passenger (P) or hazardous materials (H) endorsements. These proposed regulations would address the knowledge and/or skills training required for these CMV drivers. Additionally, this rulemaking would propose new Federal standards that training providers would meet in order to be eligible to deliver ELDT. Finally, while not specifically required by MAP–21, the NPRM reflects the ELDTAC's consensus that both refresher training and school bus (S) endorsement training should be required when appropriate.

In this NPRM, FMCSA proposes a definition of an ''Entry-Level Driver,'' a person who must complete the CDL skills test requirements, and focuses on drivers who intend to drive CMVs in interstate and/or intrastate commerce. Generally, military drivers are excepted, and farmers and firefighters are eligible to be excepted from current CDL requirements under § 383.3(c) and (d), respectively. These drivers would continue to be excepted under this proposed rule.

The proposed rule also applies to entities that train CDL applicants. Such providers would, at a minimum, offer and teach a driver training curriculum that meets all FMCSA standards as set forth in the NPRM. Furthermore, entities would meet and attest to their compliance with the eligibility requirements set forth in subpart G of part 380. These proposed requirements address the following areas: Course administration; instructional personnel qualifications; training vehicles; training facilities (*e.g.,* classroom and range); and curricula and proficiency assessment. Training providers meeting these requirements would be eligible for listing on FMCSA's TPR. These providers would continue to meet the required criteria in order to remain listed on the TPR. In addition, training providers would, at FMCSA's request, be required to supply documentary evidence to verify their compliance with the eligibility requirements. The NPRM also proposes an administrative process for providers removed from or reinstated to the TPR.

The NPRM proposes a Class A CDL core curriculum; a Class B CDL core curriculum; three specific endorsement training curricula: Hazardous materials (H), passenger bus (P), and school bus (S); and a ''refresher'' training curriculum. The core curricula for Class A and Class B CDL training programs subdivide into theory and BTW (range and public road). For those individuals seeking H, P, or S endorsements on their CDL, the appropriate training curriculum would be required. The proposed P and S training curricula are also divided into theory and BTW (range and public road) training. The H endorsement training curriculum is proposed as theory-only training because there is no CDL skills test currently required for those seeking an H endorsement. The NPRM does not propose that any minimum number of hours be spent by driver-trainees in completing the theory portion of any of the individual curricula, nor does it propose that any minimum number of hours be spent completing the non-BTW portion (*e.g.,* pre-trip inspection) of the range training. However, training providers would provide instruction on all elements of the applicable curriculum. The driver-trainee's successful completion of the appropriate curricula would be required, which includes achieving an overall score of at least 80% on the assessment administered by the training provider.

As proposed, a CDL holder who has been disqualified from operating a CMV would need to successfully complete refresher training requirements before applying for reinstatement of their CDL. Similar to the other curricula, the refresher curriculum is broken down into the categories of theory and BTW (range and public road) training; however, the NPRM does not propose that a minimum number of hours be required to complete any portion of the refresher curriculum. As noted above, the Agency proposes that SDLAs issue limited CDL privileges for persons seeking to become reinstated, solely for the purpose of allowing the driver to complete the BTW portion of the refresher curriculum.

The NPRM describes factors that would justify FMCSA's removal of a training entity from the TPR. The proposal sets forth procedures the Agency would follow before an entity can be removed from the TPR, as well as procedures that the training entities would follow in order to challenge a proposed removal.

This NPRM also proposes that training providers would electronically notify the TPR that driver-trainees have completed training by the close of the next business day. There would be no limit on the number of training certifications a provider may submit to the TPR at one time, so long as each individual driver-trainee's successful completion of his or her training is certified separately. The submission of documentation would ensure that each individual received the required training from a provider listed on the TPR prior to applying for the CDL and/or an applicable endorsement.

The proposed compliance date for this rule is three years after the effective date of the final rule. The Agency believes the three-year phase-in period would give the States enough time to (1) pass implementing legislation and/or regulations as necessary; (2) modify their information systems to begin recording the training provider's certification information into CDLIS and onto the driver's CDL record; and (3) begin making that information available to other States through CDLIS. The three-year phase-in period would also allow ample time for the CMV driver training industry to develop and begin offering training programs that meet the requirements for listing on the TPR.

Dissenting Views From ELDTAC Members

While two ELDTAC members, the American Trucking Associations (ATA) and the National Association of Small Trucking Companies (NASTC), voted in favor of the unanimously approved consensus agreement as a whole, they disagreed with the other members of the ELDTAC that a minimum number of hours of BTW training should be prescribed for the Class A CDL. The statute, as noted previously, mandates some amount of BTW training, but it does not prescribe how much, nor does it state whether the minimum amount of BTW training be expressed in hours.

ATA cited two reasons for its disagreement with the consensus approach on minimum hours of BTW training. First, ATA argued that the hours-based proposal lacks a scientific basis. ATA cited a 2008 report from the American Transportation Research Institute (ATRI) that concluded that ''no relationship is evident between total training program contact hours and driver safety events when other factors such as age and length of employment are held constant.'' ATA claimed, therefore, that a proposal prescribing a minimum number of BTW training hours was ''arbitrary.'' [9] NASTC agreed with this conclusion in its dissent.[10] FMCSA notes that the ATRI study did not rely on a representative sample of either motor carriers or new entrant drivers. The Agency therefore does not

[9] ATA Letter to Richard Parker, ELDTAC Facilitator, June 15, 2015.

[10] NASTC Statement for the Record of the ELDTAC, Rationale for Vote on Hours Requirement for Behind-the-Wheel Training June 15, 2015.

view the ATRI report's conclusion regarding the BTW training requirement as definitive for purposes of this NPRM. However, FMCSA does not have scientific evidence that would suggest that an hours-based requirement improves safety.

Throughout the ELDTAC's deliberations, the need for correlative data pertaining to the effectiveness of *any* form of ELDT (either the hours-based or the purely ''performance-based'' approach favored by ATA and NASTC) was repeatedly acknowledged. But while some participants offered data in response to the request of the ELDTAC's Data Needs/Cost Benefit Analysis Work Group, none of those submissions included safety benefit data that could be utilized in support of this proposal. However, as discussed in the RIA, there was significant information about existing driver training programs carried out by motor carriers and others that include substantial BTW training. The use of these programs to train a substantial number of CDL holders strongly supports the need for and desirability of establishing minimum BTW hours requirements in the proposed rule.

ATA's second argument was that using an hours-based approach is contrary to the ''performance-based'' approaches favored in Executive Orders 12866 and 13563, as well as the Office of Management and Budget's guidance (OMB Circular A–4, September 17, 2003). FMCSA does not believe that the consensus proposal contravenes Executive Order 12866, Section 1 (b)(8), directive that ''[e]ach agency shall identify and assess alternative forms of regulation and shall, *to the extent feasible,* specify performance objective, rather than specifying the behavior or manner of compliance that regulated entities must adopt'' (emphasis added). As the discussion in the ''alternatives considered'' section makes clear, the ELDTAC identified and assessed different approaches to driver training for Class A CDLs. As discussed below, ultimately the ELDTAC adopted a hybrid approach that combines a required minimum number of BTW hours (range and public road) for Class A and Class B CDLs only, with a prescribed theory curriculum for which no minimum number of hours is required, while also incorporating ''performance-based'' elements, such as reliance on demonstrated outcomes. The approach presented in this NPRM, therefore reflects the consensus of ELDTAC representatives that performance objectives be specified ''to the extent feasible''.

Although there are a required minimum number of BTW hours prescribed in this NPRM, FMCSA believes that many of the other provisions included are consistent with Executive Order 12866's emphasis on performance objectives, as illustrated by the level of discretion that instructors have when assessing the performance of individual driver-trainees. The NPRM proposes that instructors maintain significant flexibility, within the total number of hours required for BTW training in the Class A and B CDL curricula, to allot more or less time to specific elements of the training according to the instructor's evaluation of the trainee's demonstrated performance of required skills. For example, the NPRM permits instructors in the Class A curriculum complete discretion to determine how 10 hours (of the total required 30 hours) will be allocated, including whether those hours should be spent on the driving range or on a public road (or some combination of the two), as well as which specific driving maneuvers require further training. This level of instructional discretion, based entirely the trainee's demonstrated skill proficiency, permits BTW training to be tailored to the needs of the individual. This hybrid approach thus emphasizes the achievement of performance objectives, while also assuring that a reasonable amount of time will be spent on BTW training.

As further discussed below, the ELDTAC consensus process vetted all available evidence and alternatives. We further note that FMCSA's reliance on the consensus agreement ''as the basis'' for this proposal is required by the Negotiated Rulemaking Act (5 U.S.C. 563(a)(7)) and the ELDTAC Ground Rules (Section (3)(a)).

Alternatives Considered

As noted above, the Agency is bound to propose in this NPRM the ELDTAC's consensus package for notice and comment to the maximum extent possible consistent with its legal obligations. The preferred alternatives agreed upon as a package are outlined in the Written Statement from ELDTAC facilitator (docketed at FMCSA–2007–27748). But as discussed in the analysis of alternatives below, several other options were considered for some of the regulatory provisions being proposed. Due to our legal obligation to propose the consensus package, we provide relatively more analysis of the provisions adopted in the consensus package compared to the alternatives that were considered, but ultimately rejected, by the ELDTAC. As further discussed in the RIA, FMCSA provides some analytical assumptions about these alternatives, as compared to the alternatives ultimately proposed, as a basis for comparison. For example, some of the provisions rejected by the ELDTAC were opposed by industry based on cost considerations. We seek comment on the economic and analytical assumptions utilized to compare the alternatives considered to the approaches proposed in this NPRM.

''Performance-Based'' Versus Hours-Based Approach to ELDT

As previously noted, the issue of a ''performance-based'' approach to BTW training versus an approach requiring that a minimum number of hours be spent in BTW training was the most thoroughly debated issue within the ELDTAC.[11] The ELDTAC facilitator framed the discussion as the ''major challenge'' confronting the Committee. The Agency has considered this issue for many years, both in studies, such as the Adequacy Report, and in connection with prior rulemakings, such as the 2007 NPRM (72 FR 73226, 73229).

One of the difficulties surrounding the resolution of this question is that the term ''performance-based'' is subject to multiple interpretations. In response to the 2007 NPRM, which proposed a minimum number of hours for BTW training, FMCSA received numerous comments addressing the pros and cons of ''performance-based'' training. These comments made clear that various parties interpreted the term ''performance-based'' differently. For some commenters, it was a measure of the achievement of specific learning objectives with instructor flexibility, while other commenters thought the term simply meant that students could learn at their own pace. At least one commenter believed that the term indicated that no detailed curricula would be followed. Many commenters understood that a performance-based training system would allow proficient students to ''test out'' of an otherwise required curriculum. The ELDTAC's discussions also revealed a lack of common understanding of the term, although Committee members generally agreed that it did *not* include a minimum-hours requirement.

Given the lack of industry consensus on the precise meaning of the term ''performance-based,'' the Agency hopes to avoid further confusion by not using it in this NPRM. However, by requiring that driver-trainees achieve specific performance objectives in both the

[11] ELDTAC Meeting Minutes: March 19–20; April 9–10; May 14–15; May 28–29, 2015.

theory and BTW portions of the training, this proposal does incorporate key elements of a ''performance-based'' approach by relying on demonstrated outcomes.

The proposed curricula in the NPRM sets forth prescriptive elements of each individual curriculum (including BTW vehicle maneuvers on both range and public road), all of which must be taught and assessed. Other than BTW (range and public road) training for the Class A and B CDL, discussed below, there are no required minimum hours that driver-trainees must spend to complete the applicable curricula. The NPRM reflects the Committee's consensus that detailed curriculum requirements, combined with a prescribed means of performance assessment in the theory and BTW portions of the curricula, are necessary to ensure both adequacy and uniformity of the minimum ELDT training mandated by MAP–21.

This approach prevents individual driver-trainees from ''testing out'' of any applicable training curriculums. The NPRM requires that, for the theory portion of the training, all elements of each curriculum be taught and a representative portion of each learning unit be assessed by written or electronic means. Driver-trainees must achieve a proficiency rate of at least 80 percent. In the case of BTW training, the ELDTAC first developed a detailed curriculum for Class A and B CDLs. The committee subsequently determined the minimum number of hours necessary to complete the prescribed curricula. A driver-trainee's competence will be evaluated by the training instructor who is observing the driver-trainees while they are in direct control of the CMV when performing the required elements of the BTW curriculum (noted below) for both range and public road driving. All required driving maneuvers must be performed to the satisfaction of the instructor and the required minimum number of hours for Class A and Class B CDLs must be logged. However, as noted above, the instructor has considerable discretion in determining how the required training time will be spent by each driver-trainee.

FMCSA believes that BTW training for entry-level drivers is uniquely suited to an hours-based approach because it ensures that driver-trainees will obtain the basic safe driving skills necessary to obtain a Class A or Class B CDL and to operate their vehicles safely—skills that can only be obtained after spending a reasonable amount of time *actually driving* a CMV. All but two members of the ELDT supported this approach; safety experts on the committee considered it a requisite element of any meaningful effort to establish an ELDT protocol at the federal level. Notably, Committee members representing the professional training industry stated repeatedly that, when it comes to the proficient operation of a CMV, there is simply no substitute for experience. The proposed BTW hours requirement is intended to ensure that driver-trainees receive a minimum level of that experience.

Further, FMCSA notes that this relatively modest hours-based approach proposed for BTW range training is coupled with required driving exercises that would provide driver-trainees with the opportunity to master basic maneuvers identified in the American Association of Motor Vehicle Administrators (AAMVA)[12] Commercial Driver License Manual as well as 49 CFR 383.111 and 383.113. These BTW range maneuvers include: Straight line backing, alley dock-backing, off-set backing, parallel parking (blind side), and parallel parking (sight side). The public road portion of BTW training for the Class A and Class B CDL is also coupled with specified driving competencies that the driver-trainees would be required to master, such as vehicle controls (left and right turns, lane changes, curves at highway speeds), shifting/transmission, communication/signaling, visual search, speed and space management, and other safe driving behaviors.

The ELDTAC gave extensive consideration to each driver-trainee correctly performing these key driving skills 5 times for Class A drivers (fewer times in the case of Class B), and having the training provider maintain written documentation of such performance in a ''Master Trip Sheet'' or some comparable document. Ultimately, the ELDTAC decided not to adopt this option—either in addition to, or in lieu of, a minimum number of hours of BTW training requirement. Instead, the ELDTAC recommended that FMCSA provide post-rule guidance on the use of a ''trip sheet'' as an illustrative method by which BTW training may be documented.

In the Agency's judgment, a hybrid approach combining minimum BTW hours requirement with detailed curriculum requirements is the best way to ensure that drivers will be adequately trained in the safe operation of Class A and Class B CMVs. This approach is also consistent with the recommendation included in the June 17, 2013, MCSAC Task 13–01 Report, ''Recommendations on Minimum Training Requirements for Entry-Level Commercial Motor Vehicle (CMV) Operators'', which stated that ''the majority of the group. . .believes that FMCSA should mandate both some minimum behind-the-wheel training hours, along with performance-based requirements that achieve competency.''

While two ELDTAC members opposed any minimum hours requirement for BTW training, several members thought that the Consensus Agreement, as reflected in this NPRM, should have required a *higher* number of BTW training hours for Class A and B CDLs. Several ELDTAC members, including the Commercial Vehicle Training Association (CVTA), noted that ELDT programs currently offered in a variety of settings (*e.g.,* community colleges, institutional training providers, motor carriers, etc.) generally require more than the 30 BTW training hours proposed. According to CVTA, ''since quality trainers were and are already training in excess of this [proposed] amount of BTW time, incorporating this BTW component imposes little or no burden on any individual trainer or training program that is teaching the curriculum with *the diligence needed to produce safe drivers.''*[13] (emphasis added). For a more expansive review of existing ELDT program requirements, see the RIA.

Accordingly, we solicit comment on whether any minimum number of BTW hours should be required. If there is a required minimum number of hours for BTW training, we seek comment on whether the number of BTW training hours proposed in this NPRM should be retained, lowered, or increased. Further, because minimum hours are not proposed for BTW training for the S and P endorsements or for the refresher training, we also solicit comment on whether, and to what extent, a minimum hours requirement should be added to the BTW portions of those curricula.

As previously noted, according to some ELDTAC members and the Agency's own research, the minimum hours requirement for BTW proposed in this NPRM falls below the requirements currently imposed by many driver training programs. Some Committee members expressed concern that this proposal would cause existing training providers to reduce their level of training to reflect the proposed Federal minimum standard. FMCSA does not believe that will necessarily occur. In

[12] The ELDTAC committee endorsed this manual as the basis for the range and road training. FMCSA has docketed this material.

[13] CVTA letter to ELDTAC facilitator Richard Parker, June 9, 2015.

today's training environment, in which most States do not impose requirements pertaining to ELDT training, one might expect drivers to take only the bare minimum necessary to pass the CDL skills test. Yet that is not the case. As discussed in the RIA, a substantial share of driver trainees currently obtain training, often paid for by the motor carriers themselves, that exceeds the requirements proposed by the NPRM. The reason is that carriers and their insurers have a vested interest in putting drivers on the road that can operate their CMVs safely and efficiently and that the costs of such programs are fully justified in light of the benefits to the motor carriers and the drivers themselves. In light of this market-driven imperative, we do not think it is reasonable to assume that training providers would diminish the scope or length of their training in response to this NPRM.

Third-Party Accreditation Versus Self-Certification

The ELDTAC considered whether to propose that ELDT programs subject to this rule be accredited by third parties recognized by, for example, ED or the Council for Higher Education Accreditation. Citing the cost and potential administrative difficulties of implementing a third-party accreditation requirement, the Committee rejected this approach in favor of a self-certification process whereby training providers would attest that they meet specified eligibility requirements for listing on the TPR. The Committee approved the use of a detailed application, the Training Provider Identification Report (described below in the Paperwork Reduction Act section), designed to capture that information.[14] Training providers listed on the TPR would be subject to audit or investigation by FMCSA and must, on request, produce documentation establishing their compliance with the eligibility requirements. FMCSA intends to provide post-rule guidance regarding both suggested and required documentation, including the forms of documentation identified in Annexes 7 and 8 of the ELDTAC Consensus Agreement.

This approach is consistent with the MCSAC's recommendation that, in lieu of third-party accreditation, ELDT programs rely on an approved curriculum, quality assurance requirements for training providers, and a self-certification process to ensure a minimum level of program quality.[15] Some ELDTAC members asserted that the level of specificity of the new proposed reporting requirements alone could discourage unscrupulous training providers from entering the training field or from staying in the driver training business. In addition, such requirements would provide FMCSA with information that might be used to detect fraudulent training providers who may subsequently be removed from the TPR in accordance with the procedures set forth in the NPRM, and subject to other penalties.

ELDT Curricula

The Committee thoroughly considered the skills components and theory elements included in the six curricula proposed in the NPRM. At the outset, the ELDTAC agreed that the FHWA Model Curriculum would form the basis for initial discussions. The entire ELDTAC made all final decisions regarding curriculum content, based on detailed proposals by curriculum-specific Work Groups, which were revised and refined throughout the Committee's deliberations. FMCSA intends to provide additional post-rule guidance concerning available resources which may be used to supplement the required curricula, including those resources specifically identified by the ELDTAC: Pipeline and Hazardous Materials Safety Administration (PHMSA) basic HM awareness;[16] training for commercial drivers of cargo tank motor vehicles transporting HM created jointly by the FMCSA, PHMSA, and industry partners;[17] and the North American Fatigue Management Program (NAFMP).[18]

Activities on the range training consist of driving exercises that provide practice for the development of basic control skills and mastery of basic maneuvers as set forth in the American Association of Motor Vehicle Administrators (AAMVA) manual on how to operate a CMV safely. The experience on the range provides the groundwork for how to drive on the road in real world situations. The practicing of skills on the driving range will ultimately make a trainee a better driver. One example of a skill taught on the range is shifting. This is a skill that a trainee must master not only for acquiring their CDL, but also when the individual is operating on a public road or highway. These maneuvers/training topics are included in the road test that a trainee will need to know and master in order to pass this test and acquire their CDL. To maintain maximum flexibility, FMCSA did not propose that a certain portion of the range training needed to precede road training, but expects that trainers will require the completion of basic maneuvers in a controlled environment before allowing a student to operate on a public road.

FMCSA notes that ELDTAC did not propose a curriculum for Class C CDL training because a Class C vehicle, must, by definition, be designed to transport 16 or more passengers (including the driver) or any hazardous materials as defined in 49 CFR 383.5. As such, the Class C driver needs either a P or an H endorsement, and this NPRM proposes training curricula for both of those endorsements. Class C training is therefore effectively covered by the proposed endorsement training.

FMCSA seeks comment on the scope and content of the proposed curricula. For example, FMCSA is aware that some carriers and owner-operators utilize CMVs equipped only with an automatic transmission. In the proposed curricula for Classes A and B, shifting/transmission is a required element of both theory and BTW components of the training. We invite comment on whether there should be an option to forego this element of the training for driver-trainees who intend to operate CMVs equipped only with automatic transmissions. Currently, for drivers who take their CDL skills tests in a CMV equipped with an automatic transmission, the State must indicate on the CDL that the person is restricted from operating a CMV with a manual transmission (49 CFR 383.95(c)(1)).

FMCSA seeks comment on whether the hazardous material regulations (HMR) training in 49 CFR 172.704 could be used or modified to satisfy the H endorsement training in this proposed rule.

Data

One of the most significant challenges faced by both FMCSA and ELDTAC is the limited quantitative or qualitative data correlating the provision of *any type* of ELDT with positive safety outcomes, such as crash reduction. During the ELDTAC deliberations, a Data Needs/Cost Benefit Analysis Work Group was formed in order to focus specifically on identifying and gathering relevant data. Although some members of the Work Group submitted information in response to the data needs outlined by FMCSA's economists at the outset of the ELDTAC's deliberations and in subsequent

[14] ELDTAC Meeting Minutes, April 9–10, 2015; May 14–15, 2015.

[15] MCSAC Task 13–01 Report, pp. 4–5.

[16] *http://www.phmsa.dot.gov/hazmat/outreach-training.*

[17] *http://www.fmcsa.dot.gov/rolloverprevention.*

[18] *http://www.nafmp.org.en/.*

requests, none of the data provided was statistically adequate for use in this rulemaking analysis. The Agency seeks comment, for example, on whether the insurance industry provides discounted premiums to carriers who train entry-level drivers, or who employ entry-level drivers who have received training elsewhere (*e.g.,* from a community college or independent training school). The specific data needs related to this proposal, as well as the efforts FMCSA made to obtain data throughout the ELDTAC deliberations, are discussed in the RIA.

Impact of the NPRM on Small Training Provider Entities

During its deliberations, ELDTAC worked to ensure that the proposed rule would not be unduly burdensome to small entities that provide ELDT. The small business representatives on the ELDTAC provided valuable contributions in this regard. Based on their input, there are several regulatory elements in today's proposal tailored specifically to meet the needs of small training provider entities.

First, the Committee decided not to propose that any training entity maintain its own designated driving range. Instead, the NPRM sets forth the proposed elements that any area would meet in order to be suitable for range training. This approach provides the flexibility for small training entities to use publicly available areas, such as office building or mall parking lots during ''off'' hours for range training, so long as the basic definitional requirements (*e.g.,* range area must be free of obstructions and permit adequate sight lines) are met. The Agency requests comments on the practicability of this proposed approach. FMCSA notes that if training is done in a publicly accessible area such as a mall parking lot, all CLP requirements apply.

Second, the Committee considered proposing requirements pertaining to classroom facilities used for teaching the theory portion of the curricula, such as adequate ventilation, adequate space per driver-trainees, etc. However, in deference to the concerns of small training providers, the Committee ultimately chose not to propose any standards in this NPRM regarding the physical learning environment for theory training. We note, however, that it is outside the scope of this proposal, as well as FMCSA's authority and the ELDTAC's jurisdiction, to propose any changes in classroom facility requirements currently imposed at the local, State, or Federal levels.

Third, this proposal reflects the ELDTAC's intent to impose fewer eligibility requirements regarding the instructional personnel of training providers who train, or expect to train, three or fewer entry-level drivers per year. For example, while instructors affiliated with these providers must have a valid CDL of the appropriate or higher class and endorsements required to operate the CMVs for which training is provided, plus at least one year of driving experience in those vehicles, they would not be required to have completed training in the on-road portion of the curriculum in which they are instructing (a requirement that is imposed on instructors affiliated with providers training more than three drivers per year).

Finally, ELDTAC decided not to propose that these small training entities provide written training materials addressing the various curricula elements proposed in this NPRM, in an effort to lessen the administrative burden on such entities.

Based on the Agency's review of supporting documents to the consensus agreement, we infer that the Committee also intended to exempt instructors affiliated with providers training three or fewer drivers per year from State requirements currently applicable to CMV instructors. We note, however that the Agency has no legal authority to do so.

Further, the Agency notes the relative ease with which all training providers, regardless of size, would be able to apply for and obtain listing on the TPR. The process would be entirely electronic, eliminating any need for paperwork. Listing on the TPR would be accomplished solely by the training providers' completion of the FMCSA Entry-Level Driver Training Provider Identification Report; there is no separate requirement that the training provider be accredited by a third-party. In declining to impose such a requirement, the Committee specifically cited the costs associated with third-party accreditation and the disproportionate impact of such a requirement on small training providers. In addition, the certification that a driver has completed training would also be accomplished electronically.

The Agency seeks comment from small business entities regarding any specific changes to the NPRM that would further lessen the regulatory burden imposed by these training requirements.

Major Issues on Which the Agency Seeks Comment

FMCSA has requested comment on several issues throughout this section. The Agency specifically seeks comments on the following topics.

1. Is there any additional data on the safety benefits of requiring ELDT training that you can provide (*e.g.* demonstrated crash reduction as a result of training)?

2. As proposed, would the training be effective in improving safety? If so, what aspects of the proposal would be effective in improving safety? If not, how could the training be delivered more effectively than proposed?

3. Is there any duplication in the commercial learner's permit exam and ELDT theory training? If yes, should it be eliminated or minimized?

4. FMCSA proposed a specific number of required hours for the BTW training for Class A and B. First, should there be a required number of BTW hours for these two programs? If so, is FMCSA's proposal for 30 hours (Class A) and 15 hours (Class B) appropriate?

5. If there is not a required number of behind the wheel hours, what alternative would be appropriate to ensure adequate BTW training for Class A and B? Would a requirement that is expressed in terms of outcomes rather than specifying the means to those ends be more appropriate?

6. FMCSA allowed training providers flexibility by using either clock-hours or academic hours depending on the type of entity that offers the training (*e.g.* community college vice carrier provided trainer). FMCSA requests comment on whether training providers should be allowed to use academic hours versus clock-hours. Furthermore, FMCSA asks for input regarding whether there is a discernable difference between the two concepts.

7. MAP–21 did not mandate that FMCSA include the ''S'' endorsement as part of the required training. Given the devastating consequences of unsafe school bus operation, should the ''S'' endorsement training be retained in the final rule?

8. The Agency did not propose that the theory, BTW range, and BTW public road training occur in a specific sequence in order to allow training providers the flexibility to determine how they would structure their programs. FMCSA requests comment on whether there should be a particular order associated with the theory, BTW range, and BTW public road curricula.

Section-by-Section Explanation of the Proposed Changes

Subpart E of Part 380

Subpart E would be retitled as ''Subpart E—Entry-Level Driver Training Requirements Before [DATE 3

YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE].'' On the compliance date of the final rule, this subpart would be removed and reserved and replaced by new subparts F and G.

New Subpart F of Part 380

The proposed entry-level driver training requirements that would replace those in current subpart E would be titled ''Subpart F—Entry-Level Driver Training Requirements On and After [DATE 3 YEARS AFTER EFFECTIVE DATE OF THE FINAL RULE].''

§ 380.600 Compliance Date for Training Requirements for Entry-Level Drivers

This section states that the compliance date would be three years after the effective date of the final rule.

§ 380.601 Purpose and Scope

This proposed section specifies that Subpart F establishes requirements for entry-level drivers, minimum curriculum content, and standards for training providers. Proposed § 380.601 further specifies that the term ''ELDT'' applies only to individuals initially applying for a CDL or for a CDL upgrade and does not otherwise amend substantive CDL requirements in parts 383 and 384 beyond the changes authorized by MAP–21.

§ 380.603 Applicability

This proposed section explains that ELDT applies to all entry-level drivers, defined in this subpart, who intend to drive CMVs, as defined in § 383.5, in interstate and/or intrastate commerce. This section specifically excludes from its scope drivers excepted under § 383.3(c), (d), and (h), and those drivers applying for a restricted CDL under § 383.3(e) through (g). These exceptions cover many groups of drivers, including military drivers, farmers, and firefighters; veterans with military CMV experience who meet all the requirements and conditions of § 383.77; or applicants seeking restricted CDLs from Alaska, farm-related service industries, and the pyrotechnics industry. This proposal applies only to those individuals who, upon the compliance date, would need to obtain a CDL (or a CDL upgrade or endorsement) and does not otherwise amend substantive CDL requirements in parts 383 and 384.

Veterans with military CMV experience who meet all the requirements and conditions of § 383.77 would be excepted if the State waives the skills test, though they would still need to take the State's written test. These requirements apply to individuals who obtain the CLP on or after the compliance date. Any individual who fails to obtain the CDL within 360 days after obtaining a CLP would be required to complete a full ELDT course following application for a new CLP.

Once an entry-level driver receives training certification qualifying him or her to take the CDL skills test and/or the applicable endorsement skills test for the first time, the person is not required to obtain such certification again. However, if a CDL holder is disqualified from operating a CMV, a driver must take refresher training, as set forth in § 380.625, before reapplying for a CDL or endorsement.

§ 380.605 Definitions

FMCSA created a new definition for this subpart for behind-the-wheel (BTW) instructor, behind-the-wheel (BTW) range training, behind-the-wheel (BTW) public road training, entry-level driver, entry-level driver training, experienced driver, range, refresher training, theory instruction,[19] theory instructor, and training provider.

In the definition of ''BTW instructor'' the Committee agreed to the requirement of 1 year of CMV experience driving or 1 year or experience as a BTW instructor. The Consensus Agreement included a statement that 2 or more years of such experience ''is preferable.'' [20] The Committee agreed that FMCSA should solicit comment on whether the two-year requirement would affect the applicability of State laws relating to instructors or training providers.

§ 380.609 Entry-Level Driver Training Requirements

This proposed section explains in detail that an applicant for a CDL must complete training that meets the applicable requirements for the CDL class and endorsements (*i.e.,* Class A, Class B, passenger, school bus, or hazardous materials) from a provider listed on FMCSA's TPR. Paragraph (c) provides that CDL holders who are disqualified from operating a CMV, must complete refresher training from a training provider listed on the TPR.

§ 380.611 Entry-Level Driver Training Provider Requirements

This proposed section states that training providers must, at a minimum, meet the requirements of part 380 subpart G, and these training providers must attest that they meet those requirements. Upon request, training providers must supply documentary evidence to verify that they meet the requirements in subpart G.

As proposed, training in the theory and BTW portions of the curricula may be offered by the same or different training providers as long as the provider is listed on the TPR. The NPRM does not propose that the theory and BTW portions of the curricula be instructed in any particular order, although ELDTAC members suggested that the industry norm is that theory training precedes BTW (range and public road) training. If theory and BTW training is received from separate providers, FMCSA would not transmit training certification to the SDLA until it receives notice of successful completion of both theory and BTW (range and public road) training, when applicable. The Agency requests comment on whether the rule should require that theory and BTW training be taken sequentially and specifically whether theory training should be required before taking the State-administered written test to obtain a CLP.

§ 380.613 Class A—CDL Training Curriculum

This proposed section would require drivers seeking a Class A CDL to successfully complete the Class A curriculum outlined in this section. There is no minimum number of instruction hours proposed for the theory training, but the training provider would cover all of the topics set forth in the curriculum. The driver-trainees would also complete a minimum of 30 hours of BTW training with a minimum of 10 hours spent driving on a range. Driving on a public road would also be required, and Class A CDL driver-trainees may fulfill this requirement by either (1) driving 10 hours on a public road, or (2) 10 public road trips (each no less than 50 minutes in duration). The training provider will determine how the remaining 10 hours of BTW training will be spent (*i.e.,* whether on a range or public road, or some combination of the two). The mandatory minimum number of hours of BTW training would be conducted in a CMV for which a Class A CDL would be required.

[19] The Agency anticipates that online theory training providers will enter the training market after publication of a final rule (the NPRM permits theory and BTW training to be provided by separate entities). We expect that online training will represent a lower cost and less time-consuming option than the traditional classroom setting, lessening the burden on driver-trainees.

[20] Consensus Agreement, pg. 46, footnote 3.

§ 380.615 Class B—CDL Training Curriculum

This proposed section would require drivers seeking a Class B CDL to complete the Class B curriculum outlined in this section. No minimum number of instruction hours for theory training is proposed, but the training provider would cover all of the topics set forth in the curriculum. The driver-trainees would also complete a minimum of 15 hours of BTW driving training, with a minimum of 7 hours of public road driving. Training providers may determine how the remaining 8 hours of BTW training are spent, as long as the range curriculum, as set forth below, is covered. The mandatory minimum number of hours of BTW driving training would be conducted in a CMV for which a Class B CDL would be required.

§ 380.619 Passenger Endorsement Training Curriculum

This proposed section sets forth the proposed training requirements and curriculum for CMV drivers seeking a passenger (P) endorsement. As proposed, there is no minimum number of instruction hours for the theory and BTW (range and public road) portions of the P endorsement training, but the training provider would cover all of the topics set forth in the curriculum. The training would be conducted in a representative vehicle for the P endorsement.

§ 380.621 School Bus Endorsement Training Curriculum

FMCSA proposes a curriculum to address the specific training needs of a CMV driver seeking an S endorsement on a CDL. As proposed, there is no minimum number of hours for the theory and BTW (range and public road) portions of the S endorsement training, but the training provider would cover all of the topics set forth in the curriculum. The training would be conducted in a representative vehicle for the S endorsement.

§ 380.623 Hazardous materials training curriculum

This proposed section sets forth the training requirements and curriculum for a CMV driver seeking a hazardous materials (H) endorsement. As proposed, there is no minimum number of instruction hours for this training. This proposed training would be theory-only because the current CDL requirement to obtain an H endorsement does not include a skills test.

§ 380.625 Refresher Training Curriculum

This proposed section specifies the refresher training for CDL holders who are disqualified from operating a CMV (49 CFR 383.51(b) through (e)). These individuals would be required to complete refresher training from a provider listed on the TPR. As proposed, there is no minimum number of instruction hours for the theory and BTW (range and public road) portions of the refresher training, but the training provider would cover all of the topics set forth in the curriculum.

49 CFR Part 380, Subpart G Registry of Entry-Level Driver Training Providers

§ 380.700 Scope

This proposed section establishes the minimum qualifications for an entity to be eligible for listing on the FMCSA Training Provider Registry (TPR). The TPR would be an online portal administered by FMCSA allowing training providers to register. The TPR allows drivers seeking training to find an eligible provider who meets their needs.

§ 380.703 Requirements for Training Provider Registry

This proposed section outlines the requirements that a training provider would meet in order to be eligible for listing on the TPR. Training providers would agree to follow the applicable curriculum for the CDL class and/or endorsement for which they provide training. Additionally, the training provider would utilize instructors, facilities, and equipment that meet the proposed requirements. Third, the training provider would allow FMCSA or its designated representative to conduct audits or investigations to ensure that the provider meets the eligibility criteria for listing on the TPR. Finally, the training provider would complete the FMCSA Entry-Level Driver Training Provider Identification Report [See appendix for part 380], which provides basic business information to FMCSA and also includes an attestation, under penalties of perjury, that the provider meets all of the requirements for listing on the TPR. This section also provides that once a training provider meets the requirements of §§ 380.703 and 380.707, the training provider would receive a unique TPR number from FMCSA for each separate training location to be listed on the TPR.

§ 380.707 Entry-Level Training Provider

This proposed section would require that the training provider ensure that public road driver-trainees meet certain Federal, State, and local rules and regulations related to their ability to obtain a CDL. This section reiterates that training providers would follow the applicable curriculum for the CDL class or endorsement for which they provide training. In addition, the training provider would offer reasonable assurance that driver-trainees can demonstrate proficiency in the theory and/or BTW (range and public road) portions of the curriculum.

§ 380.709 Facilities

This proposed section includes a requirement that the classroom facilities meet all currently applicable Federal, State, and local laws and regulations. For reasons noted previously, FMCSA is not imposing any requirements related to classroom facilities.

The driving range, as defined in § 380.605, must be free of obstructions, enable the driver to maneuver safely and be free from interference from other vehicles and hazards, and have adequate sight lines. A training provider that teaches the range portion of the curriculum would have an instructor onsite who can demonstrate appropriate skills and correct deficiencies of individual driver-trainees.

§ 380.711 Equipment

This section proposes that training providers use training vehicles that are in safe mechanical condition. Vehicles used for BTW training would comply with applicable Federal and State safety requirements. Driver-trainees would be instructed in the same class (*i.e.,* Class A or Class B) and type of vehicle (cargo, passenger or school bus) that they will be operating for their CDL skills test.

§ 380.713 Driver-Instructor Qualifications/Requirements

This section proposes that theory training providers utilize instructors who are either an experienced driver or a theory instructor as defined in § 380.605. BTW training providers would be required to utilize experienced drivers as defined in § 380.605. In addition, BTW training instructors, during the two years prior to engaging in BTW instruction, must not have had a disqualification, as defined by § 383.5, under § 383.51(b) through (e). Training providers would also be required to utilize only BTW instructors on public roads whose driving record meets applicable Federal and State requirements.

§ 380.715 Assessments

This section proposes that training providers assess (in written or electronic

format) the driver-trainee's mastery of the knowledge objectives covered in the applicable theory portion of the training. In order to pass, a driver-trainee must receive an overall score of 80% or higher on the assessment. A driver-trainee's BTW proficiency on the range would be assessed by the instructor's evaluation of his or her performance of the fundamental vehicle control skills and routine driving procedures, as set forth in the applicable curricula requirements. Likewise, BTW proficiency on a public road would be assessed by observing the driver-trainee's performance of the driving maneuvers specified in the curriculum. As noted above, theory and BTW training could be delivered by separate providers.

§ 380.717 Training Certification

This section proposes that all training providers be required to upload training certificates to the TPR by close of the next business day after the driver-trainee successfully completes the training. The Agency would transmit the certification to the SDLA via CDLIS. This certificate would include:

(a) Driver name, CDL/CLP number, and State of licensure;

(b) Vehicle class and/or endorsement training the individual received;

(c) Name and TPR identification number of the training provider; and

(d) Date of successful completion of the training.

§ 380.719 Requirements for Continued Listing on the Training Provider Registry

The Agency proposes that, in order to remain on the TPR, a training provider would continue to ensure that its program meets the requirements defined in § 380.703 as well as all applicable State training licensure, registration, certification, or accreditation requirements. The goal is not to attempt to enforce State requirements, but to ensure that a training provider that fails to satisfy applicable State requirements should not remain on the TPR. In addition, a training provider would update its FMCSA Entry-Level Driver Training Provider Identification Report biennially and report changes in key information to FMCSA within 30 days of the change. Key information changes would include a change in the status of a training provider based on the number of driver-trainees actually trained in a twelve-month period. For example, if, when submitting the report form, a training provider anticipated training three or fewer driver-trainees annually, but in fact trained more than three, that provider would no longer be eligible for treatment as a small training provider. The provider's change in status would be updated on the report form and the provider would thereafter be subject to all requirements of § 380.707 (a) through (d). We invite comment regarding this proposed requirement. The training provider would also maintain required documentation as set forth in § 380.725 and ensure such documentation is available upon request to FMCSA or its authorized representative. Finally, in order to be eligible for continued listing on the TPR, training providers would allow FMCSA or its authorized representative to conduct an audit or investigation of the provider's operations.

§ 380.721 Removal From the Training Providers Registry: Factors Considered

This section proposes that FMCSA may rely on a variety of factors to determine whether to remove a training provider from the TPR, including, but not limited to:

- The provider's failure to comply with the requirements for continued listing on the TPR, as described in § 380.719.
- The provider's failure to permit FMCSA or its authorized representative the opportunity to conduct an audit or investigation of its operations.
- The audit conducted by FMCSA or its authorized representative identifies material deficiencies in the training provider's compliance with the eligibility requirements for listing on the TPR.
- The training provider falsely claims to be authorized to provide training in accordance with the applicable laws and regulations in any State in which the provider conducts training.
- The SDLA CDL exam passage rate of those individuals who successfully complete the provider's training is abnormally low. FMCSA is not establishing a minimum required CDL passage rate, but would use this information in the context of State norms.
- There is evidence of fraud or other criminal behavior by the training provider.

§ 380.723 Removal From the Training Provider Registry: Procedure

FMCSA would establish procedures for removing training providers from the TPR based on the failure of the training provider to meet the applicable requirements under 49 CFR part 380. This section proposes that the Agency provide the training provider with a notice stating the reason for the proposed removal and any corrective actions the training provider must take in order to remain listed on the TPR. The training provider must notify current driver-trainees, as well as those persons scheduled for future training, that it has received a notice of proposed removal. Training conducted after the issuance of a notice of proposed removal would not be compliant and, therefore, not valid for issuance of a CDL, until FMCSA withdraws the notice.

A training provider that wishes to remain listed on the TPR would have to provide a written response to the Director, Office of Carrier, Driver, and Vehicle Safety Standards (Director), within 30 days of the proposed removal, explaining why it believes that decision is not proper or setting forth the corrective actions that the training provider will take, or has taken. Within 60 days, the Director would notify the training provider of the Director's decision. Within 30 days of its removal from the TPR, a training provider may submit a written request for review of the Director's decision to the FMCSA Associate Administrator of Policy.

The ELDTAC discussed the effect of a training provider's involuntary removal from the TPR on those driver-trainees enrolled in that provider's program at the time of the removal, but who have not yet completed their course of training. The Committee ultimately decided that this is an issue appropriately left to negotiations between driver-trainees and the training provider.

In extreme circumstances, the Director may immediately remove a training provider from the TPR. An extreme circumstance may include, for example, issuance of a training certificate without a training provider actually providing any training. Alternatively, training providers may voluntarily remove themselves from the TPR by submitting a written request to the Director.

These proposed removal procedures are based on the process currently used in § 390.115, Procedure for removal from the National Registry of Certified Medical Examiners. The Agency seeks comment on whether there are preferable alternative approaches to the removal of training providers from the TPR.

§ 380.725 Documentation and Record Retention

This section proposes the documents that training providers must maintain and for how long. All training providers would maintain these records for 3 years from the date they were created, consistent with § 391.51, General requirements for driver qualification files.

49 CFR Part 383, Commercial Driver's License Standards; Requirements and Penalties

§ 383.51 Disqualification of Drivers

A new paragraph (a)(8) proposes that CDL holder may not be fully reinstated after a disqualification from operating a CMV under § 383.51 (b) through (e) until the individual successfully completes the refresher training curriculum in § 380.625.

§ 383.71 Driver Application Procedures

New paragraphs (a)(3), (b)(11), and (e)(3) through (5) propose the successful completion of the training prescribed in part 380, subpart F, before an initial Class A or B CDL, or a CDL with a hazardous materials, passenger, or school bus endorsement, or an upgrade to the CDL is issued. In addition, paragraph (a)(4) would require driver-trainees who have successfully completed the theory portion of the training to complete the skills portion within 360 days, except for driver-trainees seeking the H endorsement (for which the skills test is not required).

§ 383.73 State Procedures

New paragraphs (b)(10) and (c)(8), and a revised paragraph (b)(3)(ii) propose to prohibit a State from issuing an initial Class A or B CDL, or a CDL with a hazardous materials, passenger, or school bus endorsement, or an upgrade to a CDL unless the SDLA has received electronic certification indicating completion of the ELDT requirements in part 380.

§ 383.95 Restrictions

New paragraph (h) proposes to allow limited commercial driving privileges after a CDL holder has been disqualified from operating a CMV under § 383.51(b) through (e). The State would reinstate the CDL solely for the limited purpose of the driver's completion of the BTW portion of the refresher training curriculum in § 380.625. The State may not restore full CMV driving privileges until the State receives notification that the driver successfully completed the refresher training curriculum.

§ 383.153 Information on the CLP and CDL Documents and Applications

New paragraph (a)(10)(ix) would designate ''R'' as the code for the refresher training restriction on a CDL.

49 CFR Part 384—State Compliance With Commercial Driver's License Program

§ 384.230 Entry-Level Driver Certification

On or after the compliance date of the final rule, a State may not issue an initial Class A or B CDL; an initial CDL with a hazardous materials, passenger, or school bus endorsement; or a CDL upgraded from one class to another; or may not upgrade a CDL with a hazardous materials, passenger, or school bus endorsement, unless it follows the procedures prescribed in § 383.73 of this subchapter for verifying that a person received training from a provider listed on the TPR. A State may issue a CDL to an individual who obtained a CLP before the compliance date when such an individual has not complied with § 380.603(c)(1), as long as the individual obtains a CDL within 360 days after obtaining a CLP. A State may not issue a CDL to an individual who obtains a CLP *on or after* the compliance date of the final rule unless they comply with § 380.603.

§ 384.301 Substantial Compliance—General Requirements

States would be required to comply with the new ELDT requirements within three years of the effective date of the final rule.

VIII. Regulatory Analyses

A. Executive Order 12866 (Regulatory Planning and Review and DOT Regulatory Policies and Procedures as Supplemented by E.O. 13563

FMCSA has determined that this rulemaking is an economically significant regulatory action under Executive Order (E.O.) 12866, Regulatory Planning and Review, as supplemented by E.O. 13563 (76 FR 3821, January 21, 2011). It also is significant under Department of Transportation regulatory policies and procedures because the economic costs and benefits of the rule exceed the $100 million annual threshold and because of the substantial congressional and public interest concerning the lack of Federal entry-level driver training requirements. A draft regulatory impact analysis is available in the docket as indicated under the ''Public Participation and Request for Comments'' section of this preamble.

Summary of Estimated Costs

Entry-level drivers, motor carriers, training providers, SDLAs, and the Federal Government would incur costs for compliance and implementation. The costs of the rule include tuition expenses, the opportunity cost of time while in training, compliance audit costs, and costs associated with the implementation of the TPR. As shown in Table 1 above, FMCSA estimates that the 10-year cost of the proposed rule would total $5.55 billion on an undiscounted basis, $4.86 billion discounted at 3%, and $4.15 billion discounted at 7% (all in 2014 dollars).

Summary of Estimated Benefits

This proposed rule would result in benefits to CMV operators, the trucking industry, the traveling public, and to the environment. FMCSA estimated benefits in two broad categories: Non-safety benefits and safety benefits. Training would lead to more efficient driving techniques, resulting in a reduction in fuel consumption and consequently lowering environmental impacts associated with carbon dioxide emissions. Training that promotes safer, more efficient driving has been shown to reduce maintenance and repair costs. Training related to the performance of complex tasks may improve performance; in the context of the training required by this proposed rule, improvement in task performance may reduce the frequency and severity of crashes thereby resulting in safer roadways for all. As stated in the stand-alone regulatory impact analysis, however, lack of data directly linking training to improvements in safety outcomes (such as reduced crash frequency or severity) necessitated that the Agency perform a threshold analysis, consistent with OMB Circular A–4 guidance, to determine the degree of safety benefits that would need to occur as a consequence of this proposed rule in order for the rule to achieve cost-neutrality.[21]

Absent any quantified safety benefits, as shown in table 2 of section B. Summary of Major Provisions, the directly quantifiable benefits over the 10-year period of 2020 to 2029 attributable to the proposed rule total $2.68 billion on an undiscounted basis, $2.33 billion discounted at 3 percent, and $1.99 billion discounted at 7 percent (all in 2014 dollars).

The net cost of this proposed rule (net of costs and quantifiable benefits) over the 10-year period of 2020 to 2029, for which the threshold analysis estimated the degree of safety benefits necessary to offset, total $2.54 billion discounted at 3 percent, and $2.16 billion discounted at 7 percent. On an annualized basis,

[21] Office of Management and Budget. Circular A–4. *Regulatory Analysis*. September 17, 2003. Available at: *https://www.whitehouse.gov/omb/circulars_a004_a-4/* (accessed July 23, 2015).

these net costs equate to $289 million amortized at 3 percent and $287 million amortized at 7 percent.

As documented in detail in the RIA, an 8.15% improvement in safety performance (that is, an 8.15% reduction in the frequency of crashes involving those new entry-level drivers who would receive additional pre-CDL training as a result of this proposed rule during the period for which the benefit of training remains intact) is necessary to offset the net cost of the rule. The RIA is available in the docket.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980, Public Law 96–354, 94 Stat. 1164 (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, 110 Stat. 857, March 29, 1996) and the Small Business Jobs Act of 2010 (Pub. L. 111–240, 124 Stat. 2504 September 27, 2010), requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. The term ''small entities'' comprises small businesses and 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. Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities, and mandates that agencies strive to lessen any adverse effects on these businesses. FMCSA has not determined whether this proposed rule would have a significant economic impact on a substantial number of small entities. Therefore, FMCSA is publishing this initial regulatory flexibility analysis (IRFA) to aid the public in commenting on the potential small business impacts of the proposals in this NPRM. We invite all interested parties to submit data and information regarding the potential economic impact that would result from adoption of the proposals in this NPRM. We will consider all comments received in the public comment process when making a determination in the Final Regulatory Flexibility Assessment.

An IRFA, which must accompany this NPRM, must include six components. See 5 U.S.C. 603(b) and (c). The Agency has listed these components and addresses each section with regard to this NPRM.

- A description of the reasons why the action by the agency is being considered;
- A succinct statement of the objective of, and legal basis for, the proposed rule;
- A description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply;
- A description of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;
- An identification, to the extent practicable, of all relevant federal rules that may duplicate, overlap, or conflict with the proposed rule; and
- A description of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities.

Why the Action by the Agency Is Being Considered

Section 4007(a) of Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) (Pub. L. 102–240, December 18, 1991, 105 Stat. 1914, 2151) directed the Secretary of Transportation to undertake a rulemaking on the need to require training of all entry-level drivers of ''CMVs.'' The Agency has since published multiple rulemakings that would require training of entry-level drivers of CMVs, but has not published a final rule that was upheld in the courts. The proposed rule also responds to the March 10, 2015, order of the U.S. Court of Appeals for the District of Columbia Circuit.

In August 2014, FMCSA formally announced that it was considering whether to address this rulemaking through a negotiated rulemaking. Based on the Negotiated Rulemaking Act (5 U.S.C. 561–570), the Agency retained a neutral convener, as authorized under 5 U.S.C. 563(b), to interview interested parties and examine the potential for a balanced representation of these interests on an advisory committee (79 FR 49044–45). This proposal is based on the conclusions and recommendations of the advisory committee.

The Agency is proposing this rule to mandate training for entry-level drivers that are required to obtain a CDL or endorsement.

The Objectives of and Legal Basis for the Proposed Rule

The NPRM is based on the authority of the Motor Carrier Act of 1935 and the Motor Carrier Safety Act of 1984, the Commercial Vehicle Safety Act of 1986, and Section 32304 of the Moving Ahead for Progress in the 21st Century Act (MAP–21).

FMCSA proposes to mandate standards for minimum training requirements for entry-level drivers of CMVs operating in interstate and intrastate commerce that are applying for a CDL or certain endorsements. The main objective of this proposal is to improve highway safety by ensuring that entry-level CMV drivers receive appropriate training that takes into consideration the type of activities they perform.

A Description of and Where Feasible an Estimate of the Number of Small Entities To Which the Proposed Rule Will Apply

''Small entity'' is defined in 5 U.S.C. 601. Section 601(3) defines a ''small entity'' as having the same meaning as ''small business concern'' under section 3 of the Small Business Act. This includes any small business concern that is independently owned and operated, and is not dominant in its field of operation. Section 601(4), likewise includes within the definition of ''small entities'' not-for-profit enterprises that are independently owned and operated, and are not dominant in their fields of operation. Additionally, section 601(5) defines ''small entities'' as governments of cities, counties, towns, townships, villages, school districts, or special districts with populations less than 50,000.

This proposed rule would affect entry-level drivers, motor carriers, and training providers. This proposed rule would directly apply to entry-level drivers seeking to obtain a CDL or a hazardous materials (H), passenger (P), or school bus (S) endorsement. Entry-level drivers are not small entities as defined by the U.S. Small Business Administration (SBA), and are therefore not included in this IRFA.

This proposed rule does not directly regulate motor carriers, but it could indirectly affect either their motor carrier operations or their in-house training operations. A potential concern is that this proposed rule could constrain their ability to hire entry-level drivers by either constricting the pool of available entry-level drivers or increasing the market wage for entry-level drivers. However, as discussed in the RIA, most of the industry is already completing training at least equal to the requirements of this proposed rule and FMCSA does not think that the minimal requirements of this proposed rule would lead to a driver shortage, or increased wages. Furthermore, small- to

medium-sized motor carriers tend to hire drivers with at least two years' experience driving a CMV due to insurance requirements inhibiting their ability to hire entry-level drivers. Additionally, owner-operators have generally driven a CMV with a motor carrier employer for a number of years before deciding to run their own business. FMCSA does not believe that this proposed rule would affect the transportation operations of motor carriers. Some motor carriers offer in-house training to entry-level drivers and would choose to become training providers under this NPRM; these motor carriers tend to be larger in size, operating more than 100 power units. As shown in Table IFRA 1, the SBA size standard for truck transportation is currently $27.5 million in revenue per year, and the size standard for transit and passenger ground transportation is $15 million in revenue per year.

Components of this proposed rule would apply to training providers that choose to become registered with FMCSA through inclusion on the TPR. These training providers could be training schools, educational institutions, motor carriers offering in-house training to their employees or prospective employees, local governments or school districts providing training to transit agency or school bus driver employees.

These training providers operate under many different North American Industry Classification System [22] (NAICS) codes with differing size standards. As shown in table IFRA 1 below, the SBA size standard for educational services ranges from $7.5 million in revenue per year for apprenticeship training, to $27.5 million in revenue per year for colleges. Motor carriers operating in-house training programs or contractors providing transportation services for transit agencies and school districts would be classified under truck transportation or transit and passenger ground transportation, with size standards of $27.5 million and $15 million, respectively. School districts and transit agencies with modes requiring the vehicle operator to obtain a CDL train their own employees or prospective employees and would become certified training providers. The size standard for small governments is those with populations less than 50,000.

TABLE IFRA 1—SBA SIZE STANDARDS FOR SELECTED INDUSTRIES

[In millions of 2014$]

NAICS code	NAICS industry description	SBA size standard
Subsector 484—Truck Transportation		
484110	General Freight Trucking, Local	$27.5
484121	General Freight Trucking, Long-Distance, Truckload	27.5
484122	General Freight Trucking, Long-Distance, Less Than Truckload	27.5
484210	Used Household and Office Goods Moving	27.5
484220	Specialized Freight (except Used Goods) Trucking, Local	27.5
484230	Specialized Freight (except Used Goods) Trucking, Long-Distance	27.5
Subsector 485—Transit and Ground Passenger Transportation		
485113	Bus and Other Motor Vehicle Transit Systems	15.0
485210	Interurban and Rural Bus Transportation	15.0
485410	School and Employee Bus Transportation	15.0
485510	Charter Bus Industry	15.0
Subsector 611—Educational Services		
611210	Junior Colleges	20.5
611310	Colleges, Universities and Professional Schools	27.5
611513	Apprenticeship Training	7.5
611519	Other Technical and Trade School	15.0
6115193	Truck Driving Schools	15.0
Sector 92—Public Administration		
Small business size standards are not established for this Sector. Establishments in the Public Administration Sector are Federal, State, and local government agencies which administer and oversee government programs and activities that are not performed by private establishments.		

FMCSA examined data from the 2007 Economic Census, the most recent Census for which data were available, to determine the percentage of firms that have revenue at or below SBA's thresholds.[23] Although boundaries for the revenue categories used in the Economic Census do not exactly coincide with the SBA thresholds, FMCSA was able to make reasonable estimates using these data.

Motor carrier operations in the Truck Transportation industry and in the Transit and Ground Passenger industry primarily earn their revenue via the movement of people and goods. Very few of these firms would choose to become training providers, and FMCSA estimates that those firms that do train their own employees or prospective employees are generally larger in size. FMCSA does not know how many motor carriers provide in-house training, but is confident that the number of small entities in these industries who would chose to become certified training providers is a small

[22] More information about NAICS is available at: *http://www.census.gov/eos/www/naics/* (accessed July 21, 2015).

[23] U. S. Census Bureau. *2007 Economic Census.* Available at: *http://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml* (accessed August 7, 2015).

subset of those small entities listed below. According to the Economic Census, about 99% of trucking firms had annual revenue less than $25 million; the Agency concluded that the percentage would be approximately the same using the SBA threshold of $27.5 million as the boundary. For passenger carriers, the $15 million SBA threshold falls between two Economic Census revenue categories, $10 million and $25 million. The percentages of passenger carriers with revenue less than these amounts were 97.8% and 99.3%. Because the SBA threshold is closer to the lower of these two boundaries, FMCSA has assumed that the percent of passenger carriers that are small will be closer to 97.8%, and is using a figure of 98%.

The Transit and Ground Passenger Transportation subsector that focuses on School and Employee Bus Transportation (485410) is more likely to contain a high percentage of training providers than the rest of NAICS Sector 485. These entities often perform contract bus services for school districts, and some are responsible for training their employee to the standards of the State or county. The SBA size standard for this subsector is $15 million, and FMCSA estimates that about 99% of the school and employee bus transportation firms are considered small based on the SBA size standard.

Entities that identify with four of the 6-digit NAICS code in the educational services sector could register with the TPR to become training providers. The Census Bureau does not publish size by revenue data for entities in the Junior Colleges sector or the Colleges, Universities, and professional schools sector. FMCSA conservatively estimated that all of the firms in these two sectors would be small. The Census Bureau does publish size by revenue data for the apprenticeship training and other technical and trade school industries. Approximately 98% and 99%, respectively, of the firms in these industries are small. The other technical and trade school industry contains those firms that identify as truck driving schools (6115193). About 99% of truck driving schools are considered small based on the SBA size standard.

FMCSA examined data from the Federal Transit Administration (FTA) National Transit Database (NTD) to determine the number of transit agencies that serve a population of less than 50,000, and would therefore be considered small.[24] The transit agencies report many different data elements including information pertaining to the type of services they offer, the population that they serve, the urbanized area they identify with, and the number of vehicles operated. Of the 857 agencies in the database, 801 provide service with vehicles that would require a CDL to operate (*e.g.,* transit bus, commuter bus, trolley bus, bus rapid transit, etc.), and 125 of the 801 serve a population of less than 50,000. As discussed in the RIA, all agencies with CDL drivers provide entry-level driver training to their prospective employees and employees.

The 2012 Census of Governments, a survey coordinated by the Census Bureau, provides information on the school districts throughout the country.[25] FMCSA combined this data with county level 2014 population estimates from the Census Bureau to estimate that there are 6,325 school districts in counties with less than 50,000 people.[26]

Table IFRA 2 below shows the complete estimates of the number of small entities that might choose to become certified training providers.

TABLE IFRA 2—ESTIMATES OF NUMBERS OF SMALL ENTITIES

NAICS code	Description	Total number of firms	Number of small entities	% of all firms
484	Truck Transportation	83,056	82,182	99
485	Transit and Ground Passenger Transportation	12,723	12,438	98
485410	School and Employee Bus Transportation	2,574	2,486	97
611210	Junior colleges	434	434	100
611310	Colleges, universities, and professional schools	2,419	2,419	100
611513	Apprenticeship training	1,094	1,075	98
611519	Other technical and trade schools	2,672	2,640	99
92	Transit Agencies	801	125	16
92	School Districts	14,482	6,325	44

A description of the proposed reporting, recordkeeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record.

This proposed rule would include recordkeeping requirements that would pertain to small training providers. In order to be included on the TPR, each training provider would be required to submit a training provider identification report biennially at a minimum or when the information for the training provider changes and needs to be updated, the training provider goes out of business, or the training provider is re-applying to be re-listed on the TPR after previous removal. Each training provider would be required to upload training completion certification into the TPR for each entry-level driver by the next business day following completion of the training. Each training provider would be required to make themselves and their records available for inspection upon request by FMCSA or its enforcement partners. FMCSA believes that a professional or administrative employee would be capable of creating and uploading these records and requests comment on whether skills beyond those typical of a professional or administrative employee would be necessary for the above recordkeeping requirements.

An identification, to the extent practicable, of all relevant federal rules that may duplicate, overlap, or conflict with the proposed rule.

[24] USDOT Federal Transit Administration. RY 2013 National Transit Database. Agency Information and Agency Mode Service. Available at: *http://www.ntdprogram.gov/ntdprogram/datbase/2013_database/NTDdatabase.htm* (accessed August 7, 2015).

[25] U.S. Census Bureau. 2012 Census of Governments. Available at: *http://www.census.gov/govs/cog/* (accessed August 7, 2015).

[26] U.S. Census Bureau. Vintage 2014 National Population Datasets. Population, population change, and estimated components of population change: April 1, 2010 to July 1, 2014 (NST–EST2014–alldata). Available at: *https://www.census.gov/popest/data/datasets.html* (accessed August 7, 2015).

FMCSA is not aware of any relevant Federal rules that may duplicate, overlap, or conflict with the proposed rule. The current entry-level driver training requirements in 49 CFR part 380, subpart E, which are quite minimal compared to those being proposed by the NPRM, would be replaced by those in the NPRM.

A description of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities.

FMCSA attempted to draft a proposed rule that would minimize any significant economic impact on small entities. The negotiated rulemaking process by which this proposed rule was developed provided outreach to small motor carriers and training provider representatives through the Entry-Level Driver Training Advisory Committee (ELDTAC). The ELDTAC often discussed issues specific to small motor carriers and those training fewer than three entry-level drivers per year. The discussions yielded many insights, and the proposed rule takes into account the concerns expressed by small motor carrier representatives during the committee meetings. For example, training entities are not required to have a designated range, nor is FMCSA proposing training facility requirements. FMCSA is not aware of any significant alternatives that would meet the intent of our statutory requirements, but requests comment on any alternatives that would meet the intent of the statutes and prove cost beneficial for small entities.

Description of Steps Taken by a Covered Agency To Minimize Costs of Credit for Small Entities

FMCSA is not a covered agency as defined in section 609(d)(2) of the Regulatory Flexibility Act, and has taken no steps to minimize the additional cost of credit for small entities.

Requests for Comment To Assist Regulatory Flexibility Analysis

FMCSA requests comments on all aspects of this initial regulatory flexibility analysis.

C. Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, FMCSA wants to assist small entities in understanding this proposed rule so that they can better evaluate its effects on themselves and participate in the rulemaking initiative. If the proposed rule would affect your small business, organization or governmental jurisdiction and you have questions concerning its provisions or options for compliance; please consult the FMCSA point of contact, Rich Clemente, listed in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule.

Small businesses may send comments on the actions of Federal employees who enforce or otherwise determine compliance with Federal regulations to the Small Business Administration's 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 FMCSA, call 1–888–REG–FAIR (1–888–734–3247). DOT has a policy regarding the rights of small entities to regulatory enforcement fairness and an explicit policy against retaliation for exercising these rights.

D. Unfunded Mandates Reform Act of 1995

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, taken together, or by the private sector of $155 million (which is the value of $100 million in 1995 after adjusting for inflation to present-day dollars) or more in any 1 year. This rulemaking would result in private sector expenditures in excess of the $155 million threshold. Gross costs, however, are expected to be offset by fuel, carbon dioxide, and maintenance and repair savings, making this NPRM cost-neutral based on reduced instances of crashes, as further discussed in the threshold- based analysis described in the RIA.

A written statement under the Unfunded Mandates Reform Act is not required for regulations that incorporate requirements specifically set forth in law. 2 U.S.C. 1531. MAP–21 mandated that FMCSA issue regulations to establish minimum entry-level training requirements for all initial CLP/CDL applicants and CDL holders seeking license upgrades. Because this proposed rule implements the direction of Congress in mandating ELDT, a written statement under the Unfunded Mandates Reform Act is not required.

E. Paperwork Reduction Act

The proposed regulations require training providers to obtain, collect, maintain, and in some cases transmit information about their facilities, curricula and graduates. The Paperwork Reduction Act of 1995 (the PRA) (44 U.S.C. 3501–3520) prohibits Agencies from conducting information-collection (IC) activities until they analyze the need for the collection of information and how the collected data will be managed. Agencies must also analyze whether technology could be used to reduce the burden imposed on those providing the data. The Agency must estimate the time burden required to respond to the IC requirements, such as the time a training provider will expend transmitting certification data to FMCSA. The Agency submits its IC analysis and burden estimate to OMB as a formal information collection request (ICR); the Agency cannot conduct the information collection until OMB approves the ICR.

FMCSA proposes that the compliance date for the amended training rules be three years following publication of the final rule in order to provide interested parties sufficient time to adjust to the new requirements. Thus, the compliance date will be no earlier than the year 2019. Until that time, the current regulations pertaining to the training of entry-level drivers (49 CFR Subpart E) will remain in place. OMB approves information-collection activities for no more than 3 years. Consequently, at this time, the Agency does not amend its current OMB-approved estimate of the information-collection burden of subpart E: 66,250 hours.

Today, FMCSA asks for comment on the IC requirements of this proposed rule. The Agency's analysis of these comments will be used in devising the Agency's estimate of the IC burden of the final rule. Comments can be submitted to the docket as outlined under **ADDRESSES** at the beginning of this notice. Specifically, the Agency asks for comment on (1) how useful the information is and whether it can help FMCSA perform its functions better, (2) how the Agency can improve the quality of the information being collected, (3) the accuracy of FMCSA's estimate of the burden of this IC, and (4) how the Agency can minimize the burden of collection.

Title: Entry-Level Driver Training.

OMB Control Number: 2126–0028.

Summary of the Collection of Information: Under the proposal, training providers would apply online to FMCSA and provide information about their training operations. Periodically, they would upload information about those who

successfully complete entry-level driver training.

Need for Information: The Agency must be able to assess the qualifications of training providers in order to approve their participation as certified providers of the entry-level training. The identity of successful driver graduates is needed so the Agency can inform State CDL licensing agencies of those who have successfully completed the requisite training and are certified for CDL licensure.

Proposed Use of Information: The Agency will monitor training providers to ensure that they conduct training in accordance with these rules. Monitoring will include on-site safety audits of the operations of training providers. Further, the Agency will be assessing the safety performance of drivers who receive entry-level training in order to assess the efficacy of the Agency's standards of learning and their delivery by training providers.

Description of the Respondents: Training providers.

Number of Respondents: 20,800.

Frequency of Response: Training providers will register with the Agency once and thereafter update their registration at least every two years. On an irregular basis, training providers will upload to FMCSA electronically the names of the individuals who successfully complete their entry-level driver-training courses.

Burden of Response: The Agency estimates that the average training provider will require 2 hours to register and provide updates to that registration annually, or a total of 41,600 hours (20,800 training providers × 2 hours each). The Agency estimates that 449,000 entry-level drivers will graduate annually and that the average training provider will require 5 minutes to upload this information to FMCSA, or a total of 37,417 hours.

Estimate of Total Annual Burden: 79,017 hours (41,600 hours + 37,417 hours).

F. E.O. 13132 (Federalism)

A rule has implications for Federalism under § 1(a) of Executive Order 13132 if it has ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' FMCSA has determined that this proposal would have substantial direct costs on or for States or would limit the policymaking discretion of States.

FMCSA recognizes that, as a practical matter, this proposed rule may have some impact on the States. Accordingly, the Agency sought advice from the National Governors Association (NGA), National Conference of State Legislatures (NCSL), the American Association of Motor Vehicle Administrators (AAMVA), and National Association of Publicly Funded Truck Driving Schools (NAPFTDS) on the topic of entry-level driver training, by letters to each organization, dated July 6, 2015. (Copies of these letters are available in the docket for this rulemaking.) FMCSA offered NGA, NCSL, AAMVA, and NAPFTDS officials the opportunity to meet and discuss issues of concern to the States. It should also be noted that AAMVA was a member of the ELDTAC, whose consensus recommendations form the basis of this NPRM. State and local governments will also be able to raise Federalism issues during the comment period for this NPRM.

G. E.O. 12988 (Civil Justice Reform)

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminates ambiguity, and reduce burden.

H. E.O. 13045 (Protection of Children)

E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, Apr. 23, 1997), requires agencies issuing ''economically significant'' rules, if the regulation also concerns an environmental health or safety risk that an agency has reason to believe may disproportionately affect children, to include an evaluation of the regulation's environmental health and safety effects on children. The Agency determined this proposed rule is economically significant. In any event, the Agency does not anticipate that this regulatory action could in any way create an environmental or safety risk that could disproportionately affect children.

I. E.O. 12630 (Taking of Private Property)

FMCSA reviewed this proposed rule in accordance with E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, and has determined it will not effect a taking of private property or otherwise have taking implications.

J. Privacy

Section 522 of title I of division H of the Consolidated Appropriations Act, 2005, enacted December 8, 2004 (Pub. L. 108–447, 118 Stat. 2809, 3268, 5 U.S.C. 552a note), requires the Agency to conduct a privacy impact assessment (PIA) of a regulation that will affect the privacy of individuals. In accordance with this Act, a privacy impact analysis is warranted to address the collection of personally identifiable information contemplated in the proposed Entry-Level Driver Training rulemaking.

The DOT Chief Privacy Officer has determined that this rulemaking results in a low to moderate level of privacy risk for driver-trainees seeking certification through approved training providers. The NPRM requires these individuals to provide approved training providers certain personally identifiable information including, Name, CDL/CLP number, and State of licensure for the purposes of identity verification at the time of training. This information in conjunction with the individuals training record is maintained by the training provider in the individual's training record and is transmitted to the multi-state Commercial Driver's License Information System (CDLIS). State driver licensing agencies (SDLAs) may then access the individual's training record in accordance with CLDIS protocol. Individuals seeking information on the data privacy practices of training providers should consult with the specific provider.

To limit the burden on the public, the Department will provide a single technical interface in order to promote the efficient transmission of trainee data from approved training providers to CDLIS. The Department will establish technical, administrative, and physical security requirements, as appropriate to ensure the secure data transfer. An approved training provider would upload its training certificates to the Training Provider Registry which would instantaneously transmit the information electronically to CDLIS for entry into the appropriate CDL driver record. The driver-trainee would be able to apply for a CDL when the SDLA pulled the CDL driver record from CDLIS and verified that he/she had successfully completed the appropriate training. The Department will not retain a copy of the trainee certificate in its systems.

This PIA will be reviewed and revised as appropriate to reflect the Final Rule and will be published not later than the date on which the Department initiates any of the activities contemplated in the Final Rule that have an impact on individuals' privacy.

K. E.O. 12372 (Intergovernmental Review)

The regulations implementing E.O. 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

L. E.O. 13211 (Energy Supply, Distribution, or Use)

FMCSA has analyzed this proposed rule under E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The Agency has determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, it does not require a Statement of Energy Effects under E.O. 13211.

M. E.O. 13175 (Indian Tribal Governments)

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.

N. National Technology Transfer and Advancement Act (Technical Standards)

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) are standards that are developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

O. Environment (NEPA, CAA, Environmental Justice)

The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) requires Federal agencies to integrate environmental values into their decision-making processes by requiring Federal agencies to consider the potential environmental impacts of their proposed actions. In accordance with NEPA, FMCSA's NEPA Order 5610.1 (NEPA Implementing Procedures and Policy for Considering Environmental Impacts), and other applicable requirements, FMCSA is preparing an Environmental Assessment (EA) to review the potential impacts of the proposed rule. Because the implementation of this action would only alter new training standards for certain individuals applying for their initial CDL, an upgrade of their CDL, or hazardous materials, passenger, or school bus endorsement for their license, FMCSA has tentatively found that noise, endangered species, cultural resources protected under the National Historic Preservation Act, wetlands, and resources protected under Section 4(f) of the Department of Transportation Act of 1966 49 U.S.C. 303, as amended by Public Law 109–59, would not be impacted. The impact areas that may be affected and will be evaluated in this EA include air quality, hazardous materials transportation, solid waste, and public safety. But the impact area of focus for the EA will be air quality. Specifically, as outlined in the RIA for this rulemaking, FMCSA anticipates that an increase in driver training to result in improved fuel economy based on changes to driver behavior, such as smoother acceleration and braking practices. Such improved fuel economy is anticipated to result in lower air emissions and improved air quality for gases including carbon dioxide. FMCSA expects that all negative impacts, if any, will be negligible. However, we expect the overall environmental impacts of this action to be beneficial. The EA will be available for inspection or copying in the Regulations.gov Web site listed under **ADDRESSES**.

FMCSA also analyzed this NPRM under the Clean Air Act, as amended (CAA), section 176(c) (42 U.S.C. 7401 *et seq.*), and regulations promulgated by the Environmental Protection Agency (40 CFR part 93, subpart B). Under the General Conformity Rule, a conformity determination is required where a Federal action would result in total direct and indirect emissions of a criteria pollutant or precursor originating in nonattainment or maintenance areas equaling or exceeding the rates specified in 40 CFR 93.153(b)(1) and (2). As noted in the NEPA discussion above, however, FMCSA expects a net decrease in air emissions as a result of this NPRM. Consequently, approval of this action is exempt from the CAA's General Conformity Requirement since it does not affect direct or indirect emissions of criteria pollutants.

Under E.O. 12898, each Federal agency must identify and address, as appropriate, ''disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations'' in the United States, its possessions, and territories. FMCSA evaluated the environmental justice effects of this proposed rule in accordance with the Executive order, and has determined that no environmental justice issue is associated with this proposed rule, nor is there any collective environmental impact that would result from its promulgation.

List of Subjects

49 CFR Part 380

Administrative practice and procedure, Highway safety, Motor carriers, Reporting and recordkeeping requirements.

49 CFR Part 383

Administrative practice and procedure, Alcohol abuse, Drug abuse, Highway safety, Motor carriers.

49 CFR Part 384

Administrative practice and procedure, Alcohol abuse, Drug abuse, Highway safety, Motor carriers.

For the reasons set forth in the preamble, FMCSA proposes to amend 49 CFR parts 380, 383, and 384 as follows:

PART 380—SPECIAL TRAINING REQUIREMENTS

■ 1. The authority citation for part 380 is revised to read as follows:

Authority: 49 U.S.C. 31133, 31136, 31305, 31307, 31308, and 31502; sec. 4007(a) and (b) of Pub. L. 102–240 (105 Stat. 2151–2152); sec. 32304 of Pub. L. 112–141; and 49 CFR 1.87.

Subpart E—Entry-Level Driver Training Requirements Before [DATE 3 YEARS AFTER EFFECTIVE DATE OF THE FINAL RULE].

■ 2. Revise the heading for subpart E to read as set out above.

■ 3. Add subpart F to read as follows:

Subpart F—Entry-Level Driver Training Requirements On and After [DATE 3 YEARS AFTER EFFECTIVE DATE OF THE FINAL RULE].

Sec.

380.600 Compliance date for training requirements for entry-level drivers. 380.601 Purpose and scope. 380.603 Applicability. 380.605 Definitions. 380.609 General entry-level driver training requirements.
380.611 Driver training provider requirements.
380.613 Class A—CDL training curriculum.
380.615 Class B—CDL training curriculum.
380.619 Passenger endorsement training curriculum.
380.621 School bus endorsement training curriculum.

380.623 Hazardous materials endorsement training curriculum.
380.625 Refresher training curriculum.

Subpart F—Entry-Level Driver Training Requirements On and After [DATE 3 YEARS AFTER EFFECTIVE DATE OF THE FINAL RULE]

§ 380.600 Compliance date for training requirements for entry-level drivers.

Compliance with the provisions of this subpart is required on or after [DATE THREE YEARS AFTER EFFECTIVE DATE OF THE FINAL RULE].

§ 380.601 Purpose and scope.

This subpart establishes training requirements for entry-level drivers, minimum content for training curricula, and standards for training providers. Entry-level driver training, as defined in this subpart, applies only to those individuals who need to obtain a commercial driver's license (or a commercial driver's license upgrade or endorsement) and does not otherwise amend substantive commercial driver's license requirements in part 383 of this chapter.

§ 380.603 Applicability.

(a) The rules in this subpart apply to all entry-level drivers, as defined in this subpart, who intend to drive CMVs as defined in § 383.5 of this chapter in interstate and/or intrastate commerce, except:

(1) Drivers excepted from the CDL requirements under § 383.3 (c), (d), and (h) of this chapter;

(2) Drivers applying for a restricted CDL under § 383.3(e) through (g) of this chapter; and

(3) Veterans with military CMV experience who meet all the requirements and conditions of § 383.77 of this chapter.

(b) Drivers who hold a valid CDL issued before [DATE 3 YEARS AFTER EFFECTIVE DATE OF THE FINAL RULE] are not required to comply with this subpart except as otherwise specifically provided.

(c) (1) Individuals who obtain a CLP before [DATE 3 YEARS AFTER EFFECTIVE DATE OF THE FINAL RULE] are not required to comply with this subpart if they obtain a CDL within 360 days after obtaining a CLP.

(2) Individuals who obtain a CLP on or after [DATE 3 YEARS AFTER EFFECTIVE DATE OF THE FINAL RULE] will be required to comply with this subpart.

(d) Except as provided under paragraph (e) of this section, a person who has received training qualifying him or her to take the skills test for a CDL and/or endorsement is not required to obtain such training again before reapplying for a CDL or endorsement.

(e) A CDL holder who has been disqualified from operating a CMV under § 383.51(b) through (e) of this chapter, must complete the refresher training requirements of § 380.625.

§ 380.605 Definitions.

(a) The definitions in parts 383 and 384 of this subchapter apply to this subpart, except where otherwise stated.

(b) As used in this subpart:

Behind-the-wheel (BTW) instructor means an experienced driver as defined in this section and who provides BTW training involving the actual operation of a CMV by entry-level driver on a range or a public road. These instructors must have completed training in the public road portion of the curriculum in which they are instructing, except that instructors utilized by training providers that train, or expect to train, three or fewer drivers annually do not need to meet this additional requirement.

Behind-the-wheel (BTW) range training means training provided by a qualified driver-instructor when driver-trainees have actual control of the power unit during a driving lesson conducted on a range. BTW range training does not include time driver-trainees spend observing the operation of a CMV when he/she is not in control of the vehicle.

Behind-the-wheel (BTW) public road training means training provided by a qualified driver-instructor when driver-trainee has actual control of the power unit during a driving lesson conducted on a public road. BTW public road training does not include the time that driver-trainees spend observing the operation of a CMV when he/she is not in control of the vehicle.

Entry-level driver means a person who must complete the CDL skills test requirements under 49 CFR 383.71 prior to receiving the initial CDL or having a CDL reinstated, upgrading to a Class A or Class B CDL, or obtaining a hazardous materials, passenger, or school bus endorsement. This definition does not include individuals for whom States waive the CDL skills test under 49 CFR 383.77.

Entry-level driver training means training an entry-level driver receives from an entity listed on FMCSA's Training Provider Registry prior to:

(1) Taking the CDL skills test required to receive the initial Class A or Class B CDL;

(2) Taking the CDL skills test required to upgrade to a Class A or Class B CDL; or

(3) Taking the CDL knowledge and skills test required to obtain a passenger or school bus endorsement, or the CDL knowledge test required to obtain a hazardous materials endorsement.

Experienced driver means a driver who holds a CDL of the same (or higher) class and with all endorsements necessary to operate the CMV for which training is to be provided and who:

(1) Has at least 1 year of experience driving a CMV requiring a CDL of the same or higher class and/or the same endorsement; or

(2) Has at least 1 year of experience as a BTW CMV instructor; and

(3) Meets all applicable State training requirements for CMV instructors.

Range means an area that must be free of obstructions, enables the driver to maneuver safely and free from interference from other vehicles and hazards, and has adequate sight lines.

Refresher training means training a CDL holder who has been disqualified from operating a CMV must take.

Theory instruction means knowledge instruction on the operation of a CMV and related matters provided by a theory instructor through lectures, demonstrations, audio-visual presentations, computer-based instruction, driving simulation devices, online training, or similar means.

Theory instructor means instructors who provide knowledge instruction on the operation of a CMV and are either an experienced driver as defined in this section or have previously audited or instructed that portion of the theory training course that they intend to instruct.

Training provider means an entity that is listed on the FMCSA Training Provider Registry, as required by subpart G of this part.

§ 380.609 General entry-level driver training requirements.

(a) A person who wishes to obtain a CDL that would allow him/her to operate a Class A or B CMV in interstate or intrastate commerce must successfully complete driver training from a provider listed on the Training Provider Registry (TPR). A person who intends to operate a CMV for which a Class A CDL is required must complete the curriculum outlined in § 380.613 and a person who intends to operate a CMV for which a Class B CDL is required must complete the curriculum outlined in § 380.615.

(b) A person who wishes to obtain a passenger (P), school bus (S), or hazardous materials (H) endorsement on his or her CDL must successfully complete the appropriate training from a training provider listed on the TPR. A

person who intends to operate a CMV for which a passenger endorsement is required must successfully complete the curriculum outlined in § 380.619. A person who intends to operate a CMV for which a school bus endorsement is required must successfully complete the curriculum outlined in § 380.621. A person who intends to operate a CMV for which an H endorsement is required must successfully complete the curriculum outlined in § 380.623.

(c) A CDL holder who is disqualified from operating a CMV under § 383.51(b) through (e) of this chapter, must successfully complete refresher training from a training provider listed on the TPR. Refresher training must meet the curriculum outlined in § 380.625.

§ 380.611 Driver training provider requirements.

(a) Entities seeking to be listed on the Training Provider Registry must, at a minimum, meet the requirements of subpart G of this part.

(b) Entities must attest that they meet the requirements of this part.

(c) Entities must, upon request, supply documentary evidence to FMCSA or its authorized representatives so the Agency can verify compliance with these requirements.

§ 380.613 Class A—CDL training curriculum.

(a) Class A CDL applicants must successfully complete the Class A CDL curriculum outlined in paragraph (b) of this section. There is no required minimum number of instruction hours for theory training, but the training provider must cover all the topics set forth in the curriculum in paragraph (b) of this section. Applicants must complete a minimum of 30 hours of training in BTW driving with a minimum of 10 hours spent driving on a range and either 10 hours driving on a public road; or 10 public road trips (each no less than 50 minutes in duration). The training provider will determine how the remaining 10 hours of BTW training will be spent (*i.e.,* whether on a range or public road, or some combination of the two). The mandatory minimum hours of BTW training must be conducted in a CMV for which a Class A CDL is required.

(b) *Class A CDL curriculum.* The Class A curriculum must, at a minimum, include the following:

(1) *Theory*—(i) *Basic operation.* This component must cover the interaction between driver-trainees and the CMV. Driver-trainees will receive instruction in the Federal Motor Carrier Safety Regulations (FMCSRs) and will be introduced to the basic CMV instruments and controls. Driver trainees must familiarize themselves with the basic operating characteristics of a CMV. This section must also teach driver-trainees how to properly perform vehicle inspections, control the motion of CMVs under various road and traffic conditions, employ shifting and backing techniques, and properly couple and uncouple combination vehicles. Driver-trainees must first familiarize themselves with the basic operating characteristics of a CMV. Then, driver-trainees must be able to perform the skills in each unit to a level of competency required to permit safe transition to public road driving.

(A) *Orientation.* This unit must introduce driver-trainees to the combination vehicle driver training curriculum and the components of a combination vehicle. Driver-trainees will learn the safety fundamentals, essential regulatory requirements (*i.e.,* overview of FMCSRs/hazardous materials (HM) regulations), and driver-trainees' responsibilities not directly related to driving. This unit must also cover the ramifications and driver disqualification provisions and fines for non-compliance with parts 380, 382, 383, 387, and 390 through 399 of this chapter. This unit must also include an overview of the applicability of State and local laws relating to the safe operation of the CMV, stopping at weigh stations/scales, hazard awareness of vehicle size and weight limitations, low clearance areas (*e.g.,* CMV height restrictions), and bridge formulas.

(B) *Control systems/dashboard.* This unit must introduce driver-trainees to vehicle instruments, controls, and safety components. The driver-trainees will learn to read gauges and instruments correctly and learn proper use of vehicle safety components, including safety belts and mirrors. Driver-trainees will also learn to identify, locate, and explain the function of each of the primary and secondary controls including those required for steering, accelerating, shifting, braking, and parking.

(C) *Pre- and post-trip inspections.* This unit must stress to driver-trainees the importance of vehicle inspections and help them develop the skills necessary for conducting pre-trip, enroute, and post-trip inspections. This unit must include instruction in a driver-trainee's personal awareness of his or her surroundings, including at truck stops and/or rest areas, and at shipper/receiver locations.

(D) *Basic control.* This unit must introduce basic vehicular control and handling as it applies to combination vehicles. This must include instruction addressing basic combination vehicle controls in areas such as executing sharp left and right turns, centering the vehicle, and maneuvering in restricted areas.

(E) *Shifting/operating transmissions.* This unit must introduce shifting patterns and procedures to driver-trainees to prepare them to safely and competently perform basic shifting maneuvers. This must include training driver-trainees to execute up and down shifting techniques on multi-speed dual range transmissions, if appropriate. The importance of increased fuel economy achieved by utilizing proper shifting techniques should also be covered.

(F) *Backing and docking.* This unit must prepare driver-trainees to back and dock the combination vehicle safely. This unit must cover ''Get Out and Look'' (GOAL), evaluation of backing/loading facilities, knowledge of backing set ups, as well as instruction in how to back with use of spotters.

(G) *Coupling and uncoupling.* This unit must provide instruction for driver-trainees to develop the skills necessary to conduct the procedures for safe coupling and uncoupling of combination vehicle units.

(ii) *Safe operating procedures.* This component must teach the practices required for safe operation of the combination vehicle on the highway under various road, weather, and traffic conditions. Driver-trainees must be instructed in the Federal rules (§ 392.16 of this chapter) governing the proper use of safety restraint systems (*i.e.,* seat belts).

(A) *Visual search.* This unit must enable driver-trainees to visually search the road for potential hazards and critical objects, including instruction on recognizing distracted pedestrians or distracted drivers. This unit must include instruction in how to ensure a driver-trainee's personal security/general awareness in common surroundings such as truck stops and/or rest areas, and at shipper/receiver locations.

(B) *Vehicle communications.* This unit must enable driver-trainees to communicate their intentions to other road users. Driver-trainees must learn techniques for different types of communication on the road, including proper use of headlights, turn signals, four-way flashers, and horns. Instruction in proper utilization of eye contact techniques with other drivers and pedestrians will be covered in this unit.

(C) *Speed management.* This unit must enable driver-trainees to manage speed effectively in response to various road, weather, and traffic conditions.

Driver-trainees must understand that driving competency cannot compensate for excessive speed. Instruction must include methods for calibrating safe following distances under an array of conditions including traffic, weather, and CMV weight and length.

(D) *Space management.* This unit must teach driver-trainees about the importance of managing the space surrounding the vehicle. Emphasis must be placed upon maintaining appropriate space surrounding the vehicle for safe operation under various traffic and road conditions.

(E) *Night operation.* Driver-trainees will learn the factors affecting the safe operation of CMVs at night and in darkness, including the specific factors that require special attention on the part of the driver. Driver-trainees must be instructed in vehicle safety inspection, vision, communications, speed, and space management and proper use of lights, as needed, to deal with the special problems night driving presents.

(F) *Extreme driving conditions.* This unit addresses the driving of CMVs under extreme conditions. Emphasis must be placed upon the factors affecting the operation of CMVs in cold, hot, and inclement weather and on steep grades and sharp curves. Driver-trainees will learn the changes in basic driving habits needed to deal with the specific problems presented by extreme driving conditions. Driver-trainees will also learn proper tire chaining procedures in this unit.

(iii) *Advanced operating practices.* This component must introduce higher-level skills that can be acquired only after the more fundamental skills and knowledge taught in the prior two components have been mastered. Driver-trainees must learn about the advanced perceptual skills necessary to recognize potential hazards and must demonstrate the procedures needed to handle a CMV when faced with a hazard.

(A) *Hazard perception.* The unit must provide instruction in recognizing potential hazards in the driving environment in time to reduce the severity of the hazard and neutralize possible emergency situations. Driver-trainees must identify road conditions and other road users that are a potential threat to the safety of the combination vehicle and suggest appropriate adjustments. Emphasis must be placed upon hazard recognition, visual search, adequate surveillance, and response to possible emergency-producing situations encountered by CMV drivers in various traffic situations. Driver-trainees will also learn to recognize potential dangers and the safety procedures that must be utilized while driving in construction/work zones.

(B) *Distracted driving.* Driver-trainees must be instructed in the ''key'' driver distraction issues, including improper cell phone use, texting, and use of in-cab technology. This includes training in the following aspects: Visual attention (keeping eyes on the road); manual control (keeping hands on the wheel); and cognitive awareness (keeping mind on the task and safe operation of the CMV).

(C) *Emergency maneuvers/skid avoidance.* This unit must enable driver-trainees to carry out appropriate responses when faced with CMV emergencies. These must include evasive steering, emergency braking, and off-road recovery, as well as the proper response to brake failures, tire blowouts, hydroplaning, skidding, jackknifing, and rollovers. The discussion must include a review of unsafe acts and the role they play in producing or worsening hazardous situations.

(D) *Skid control and recovery.* This unit must teach the causes of skidding and jackknifing and techniques for avoiding and recovering from them. Driver-trainees must understand the importance of maintaining directional control and bringing the CMV to a stop in the shortest possible distance while operating over a slippery surface.

(E) *Railroad-highway grade crossings.* Driver-trainees will learn to recognize potential dangers and appropriate safety procedures to utilize at railroad (RR)-highway grade crossings. This instruction must include an overview of various State RR grade crossing regulations, RR grade crossing environments, obstructed view conditions, clearance around the tracks, and rail signs and signals.

(F) *Vehicle systems and reporting malfunctions.* This section must provide entry-level driver-trainees with sufficient knowledge of the combination vehicle and its systems and subsystems to ensure that they understand and respect their role in vehicle inspection, operation, and maintenance and the impact of those factors upon highway safety and operational efficiency.

(G) *Identification and diagnosis of malfunctions, including out-of-service violations.* This unit must teach driver-trainees to identify major combination vehicle systems. The goal is to explain their function and how to check all key vehicle systems, (*e.g.,* engine, engine exhaust auxiliary systems, brakes, drive train, coupling systems, and suspension) to ensure their safe operation. Driver-trainees must be provided with a detailed description of each system, its importance to safe and efficient operation, and what is needed to keep the system in good operating condition. Driver-trainees must further learn what vehicle and driver violations are classified as out-of-service (OOS), including the ramifications and penalties for operating when subject to an OOS order as defined in § 390.5 of this chapter.

(H) *Maintenance.* This unit must introduce driver-trainees to the basic servicing and checking procedures for various engine and vehicle components and to help develop their ability to perform preventive maintenance and simple emergency repairs.

(iv) *Non-vehicle activities.* This component must prepare driver-trainees to handle the responsibilities of a combination vehicle driver that do not involve actually operating the CMV.

(A) *Handling and documenting cargo.* This unit must enable driver-trainees to understand the basic theory of cargo weight distribution, cargo securement on the vehicle, cargo covering, and techniques for safe and efficient loading/unloading. Driver-trainees will learn basic cargo security/cargo theft prevention procedures in this unit. Basic information regarding the proper handling and documentation of HM cargo will also be covered in this unit.

(B) *Environmental compliance issues.* Driver-trainees will learn to recognize environmental hazards and issues related to the CMV and load, and made aware that city, county, State, and Federal requirements may apply to such circumstances.

(C) *Hours of service requirements.* The purpose of this unit is to enable driver-trainees to understand that there are different hours-of-service (HOS) requirements applicable to different industries. Driver-trainees must learn all applicable HOS regulatory requirements. Driver-trainees will develop the ability to complete a Driver's Daily Log (electronic and paper), timesheet, and logbook recap, as appropriate. Driver-trainees will learn the consequences (safety, legal, and personal) of violating the HOS regulations, including the fines and penalties imposed for these types of violations.

(D) *Fatigue and wellness awareness.* The issues and consequences of chronic and acute driver fatigue and the importance of staying alert will be covered in this unit. Driver-trainees must learn regulatory requirements regarding driver wellness and basic health maintenance that affect a driver's ability to safely operate a CMV. This unit also must address issues such as

diet, exercise, personal hygiene, stress, and lifestyle changes.

(E) *Post-crash procedures.* Driver-trainees must learn appropriate post-crash procedures, including the requirement that the driver, if possible, assess his or her physical condition immediately after the crash and notify authorities, or assign the task to other individuals at the crash scene. Driver-trainees must also learn how to protect the area; obtain emergency medical assistance; move on-road vehicles off the road in minor crashes so as to avoid subsequent crashes or injuries; engage flashers, placing triangles, and properly use a fire extinguisher, if necessary. The following topics must also be covered: Responsibilities for assisting injured parties; Good Samaritan Laws; driver legal obligations and rights, including rights and responsibilities for engaging with law enforcement personnel; and the importance of learning company policy on post-crash procedures. Driver-trainees must receive instruction in post-crash testing requirements related to controlled substances and alcohol. Driver-trainees must learn the techniques of photographing the scene; obtaining witness information; assessing skid measurements; and assessing signage, road, and weather conditions.

(F) *External communications.* Driver-trainees must be instructed in the value of effective interpersonal communication techniques/skills to interact with enforcement officials. Driver-trainees must be taught the specifics of the roadside vehicle inspection process, and what to expect during this activity. Driver-trainees who are not native English speakers must be instructed in FMCSA English language proficiency requirements and the consequences for violations. Driver-trainees also must learn the implications of violating Federal and state regulations on their driving records and their employing motor carrier's records.

(G) *Whistleblower/coercion.* This unit will advise the driver-trainees about the right of an employee to question the safety practices of an employer without incurring the risk of losing a job or being subject to reprisals simply for stating a safety concern. Driver-trainees must be instructed in the whistleblower protection regulations in 29 CFR part 1978. They must also learn the procedures for reporting to FMCSA incidents of coercion from motor carriers, shippers, receivers, or transportation intermediaries.

(H) *Trip planning.* This unit must address the importance of and requirements for planning routes and trips. This instruction must address planning the safest route, planning for rest stops, heavy traffic areas, railroad-highway grade crossing safe clearance and ground clearance (*i.e.,* ''high center''), the importance of Federal and State requirements on the need for permits, and vehicle size and weight limitations. Driver-trainees must be instructed in the correct identification of restricted routes, the pros and cons of Global Positioning System (GPS)/trip routing software, and the importance of selecting fuel-efficient routes.

(I) *Drugs/alcohol.* In this unit, driver-trainees must learn that there are a variety of rules applicable to drug and alcohol use and must receive the training required by the applicable drug and alcohol regulations, including consequences for engaging in controlled substance (including prescription drugs) and alcohol use-related conduct. The importance of avoiding use of drugs/alcohol in violation of applicable regulations must be covered in this unit.

(J) *Medical requirements.* In this unit, driver-trainees will learn the Federal rules on medical certification, medical examination procedures, general qualifications, responsibilities, and disqualifications based on various offenses, orders, and loss of driving privileges (49 CFR part 391, subparts B and E).

(2) *Range.* This unit must consist of driving exercises related to basic vehicle control skills and mastery of basic maneuvers, as covered in §§ 383.111 and 383.113 of this chapter, necessary to operate the vehicle safely. Activities in this unit will take place on a driving range as defined in § 380.605.

(i) *Vehicle inspection pre-trip/enroute/post-trip.* Driver-trainees must demonstrate proficiency in proper techniques for performing pre-trip, enroute, and post-trip inspections and making accurate notes of actual and suspected component abnormalities or malfunctions using a Driver Vehicle Inspection Report in accordance with the FMCSRs.

(ii) *Straight line backing.* Driver-trainees must demonstrate proficiency in proper techniques for performing various straight line backing maneuvers to appropriate criteria/acceptable tolerances.

(iii) *Alley dock backing (45/90 degree).* Driver-trainees must demonstrate proficiency in proper techniques for performing 45/90 degree alley dock maneuvers, to appropriate criteria/acceptable tolerances.

(iv) *Off-set backing.* Driver-trainees must demonstrate proficiency in proper techniques for performing off-set backing maneuvers to appropriate criteria/acceptable tolerances.

(v) *Parallel parking blind side.* Driver-trainees must demonstrate proficiency in proper techniques for performing parallel parking blind side positions/maneuvers to appropriate criteria/acceptable tolerances.

(vi) *Parallel parking sight side.* Driver-trainees must demonstrate proficiency in proper techniques for performing sight side parallel parking maneuvers to appropriate criteria/acceptable tolerances.

(vii) *Coupling and uncoupling.* Driver-trainees must demonstrate proficiency in proper techniques for coupling, inspecting and uncoupling combination vehicle units, in accordance with safety requirements and approved practices.

(3) *Public road.* The instructor must engage in active two-way communication with the driver-trainees during all active training sessions and evaluate the driving competence of the driver-trainees during all public road training. Concepts described in paragraphs (b)(3)(viii) through (xiii) of this section are discussed during public road training or simulated, but not necessarily performed.

(i) *Vehicle controls including: Left turn, right turns, lane changes, curves at highway speeds.* Driver-trainees must demonstrate proficiency in proper techniques for initiating vehicle movement, executing left and right turns, changing lanes, navigating curves at speed, and stopping the vehicle in a controlled manner.

(ii) *Shifting/transmission.* Driver-trainees must demonstrate proficiency in proper techniques for performing safe and fuel-efficient shifting and making any necessary adjustments in the process.

(iii) *Communications/signaling.* Driver-trainees must demonstrate proficiency in proper techniques for signaling intentions and effectively communicating with other drivers.

(iv) *Visual search.* Driver-trainees must demonstrate proficiency in proper techniques for visually searching the road for potential hazards and critical objects.

(v) *Speed and space management.* Driver-trainees must demonstrate proficiency in proper habits and techniques for adjusting and maintaining vehicle speed, taking into consideration various factors such as traffic and road conditions. Driver trainees practice maintaining proper speed to keep appropriate spacing between the driver-trainee's CMV and other vehicles. Instruction must include methods for calibrating safe following distances under an array of conditions

including traffic, weather, and CMV weight and length.

(vi) *Safe driver behavior.* Driver-trainees must learn and demonstrate proficiency in safe driver behavior during their operation of the CMV.

(vii) *Hours of service (HOS) requirements.* Driver-trainees must demonstrate proficiency in the basic activities required by the HOS regulations, such as completing a Driver's Daily Log (electronic and paper), timesheet, and logbook recap, as appropriate.

(viii) *Hazard perception (partial demonstration).* Driver-trainees must demonstrate their ability to recognize potential hazards in the driving environment in time to reduce the severity of the hazard and neutralize possible emergency situations. Driver-trainees must demonstrate the ability to identify road conditions and other road users that are a potential threat to the safety of the combination vehicle and suggest appropriate adjustments.

(ix) *Railroad (RR)-highway grade crossing.* (demonstration where railroad grade crossing is available, simulated otherwise). Driver-trainees must demonstrate the ability to recognize potential dangers and to implement appropriate safety procedures when RR-highway grade crossings are reasonably available.

(x) *Night operation.* Driver-trainees must learn how to operate a CMV safely at night. Heightened emphasis must be placed upon the factors affecting the operation of CMVs at night. Driver-trainees must learn that night driving presents specific circumstances that require heightened attention on the part of the driver. Driver-trainees must be taught special requirements for in-vehicle safety inspection, night vision, communications, speed, and space management, and proper use of lights as needed to prepare driver-trainees to deal with the special problems night driving presents. Though not required to do so, training providers are strongly encouraged to offer driver-trainees night-driving experience where feasible.

(xi) *Extreme driving conditions.* Driver-trainees must be familiar with the special risks created by, and the heightened precautions required by, driving CMVs under extreme driving conditions, such as heavy rain, high wind, high heat, high grades, fog, snow, and ice. Emphasis must be placed upon the factors affecting the operation of CMVs in cold, hot, and inclement weather and on steep grades and sharp curves. Driver-trainees must learn and demonstrate proficiency in changes in basic driving habits needed to deal with the specific challenges presented by these extreme driving conditions.

(xii) *Emergency maneuvers/skid avoidance.* Driver-trainees must be familiar with proper techniques for responding to CMV emergencies, such as evasive steering, emergency braking and off-road recovery. They must also know how to prevent or respond to brake failures, tire blowouts, hydroplaning, skidding, jackknifing, and rollovers.

(xiii) *Skid control and recovery.* Driver-trainees must know the causes of skidding and jackknifing and techniques for avoiding and recovering from them. Driver-trainees must know how to maintain directional control and bring the CMV to a stop in the shortest possible distance while operating over a slippery surface.

§ 380.615 Class B—CDL training curriculum.

(a) Class B CDL applicants must successfully complete the Class B CDL curriculum outlined in paragraph (b) of this section. There is no required minimum number of instruction hours for theory training, but the training provider must cover all the topics in the curriculum set forth in paragraph (b) of this section. Applicants must successfully complete a minimum of 15 hours of BTW training with a minimum of 7 hours of public road driving. Training providers may determine how the remaining 8 hours of BTW training are spent, as long as the range curriculum, as set forth below, is covered. The mandatory minimum hours of BTW training must be conducted in a CMV for which a Class B CDL would be required.

(b) *Class B CDL core curriculum.* The Class B curriculum must, at a minimum, include the following:

(1) *Theory*—(i) *Basic operation.* This component must cover the interaction between driver-trainees and the CMV. Driver-trainees will receive instruction in the Federal Motor Carrier Safety Regulations (FMCSRs) and will be introduced to the basic CMV instruments and controls. Driver trainees must familiarize themselves with the basic operating characteristics of a CMV. This section must also teach driver-trainees how to properly perform vehicle inspections, control the motion of CMVs under various road and traffic conditions, employ shifting and backing techniques, and properly couple and uncouple combination vehicles. Driver-trainees must first familiarize themselves with the basic operating characteristics of a CMV. Then, driver-trainees must be able to perform the skills in each unit to a level of competency required to permit safe transition to public road driving.

(A) *Orientation.* This unit must introduce driver-trainees to the combination vehicle driver training curriculum and the components of a combination vehicle. Driver-trainees will learn the safety fundamentals, essential regulatory requirements (*i.e.,* overview of FMCSRs/hazardous materials (HM) regulations), and driver-trainees' responsibilities not directly related to driving. This unit must also cover the ramifications and driver disqualification provisions and fines for non-compliance with parts 380, 382, 383, 387, and 390 through 399 of this chapter. This unit must also include an overview of the applicability of State and local laws relating to the safe operation of the CMV, stopping at weigh stations/scales, hazard awareness of vehicle size and weight limitations, low clearance areas (*e.g.,* CMV height restrictions), and bridge formulas.

(B) *Control systems/dashboard.* This unit must introduce driver-trainees to vehicle instruments, controls, and safety components. The driver-trainees will learn to read gauges and instruments correctly and learn proper use of vehicle safety components, including safety belts and mirrors. Driver-trainees will also learn to identify, locate, and explain the function of each of the primary and secondary controls including those required for steering, accelerating, shifting, braking, and parking.

(C) *Pre- and post-trip inspections.* This unit must stress to driver-trainees the importance of vehicle inspections and help them develop the skills necessary for conducting pre-trip, enroute, and post-trip inspections. This unit must include instruction in a driver-trainee's personal awareness of his or her surroundings, including at truck stops and/or rest areas, and at shipper/receiver locations.

(D) *Basic control.* This unit must introduce basic vehicular control and handling as it applies to combination vehicles. This must include instruction addressing basic combination vehicle controls in areas such as executing sharp left and right turns, centering the vehicle, and maneuvering in restricted areas.

(E) *Shifting/operating transmissions.* This unit must introduce shifting patterns and procedures to driver-trainees to prepare them to safely and competently perform basic shifting maneuvers. This must include training driver-trainees to execute up and down shifting techniques on multi-speed dual range transmissions, if appropriate. The importance of increased fuel economy

achieved by utilizing proper shifting techniques should also be covered.

(F) *Backing and docking.* This unit must prepare driver-trainees to back and dock the combination vehicle safely. This unit must cover ''Get Out and Look'' (GOAL), evaluation of backing/loading facilities, knowledge of backing set ups, as well as instruction in how to back with use of spotters.

(ii) *Safe operating procedures.* This component must teach the practices required for safe operation of the combination vehicle on the highway under various road, weather, and traffic conditions. Driver-trainees must be instructed in the Federal rules (§ 392.16 of this chapter) governing the proper use of safety restraint systems (*i.e.,* safety belts).

(A) *Visual search.* This unit must enable driver-trainees to visually search the road for potential hazards and critical objects, including instruction on recognizing distracted pedestrians or distracted drivers. This unit must include instruction in how to ensure a driver-trainee's personal security/general awareness in common surroundings such as truck stops and/or rest areas, and at shipper/receiver locations.

(B) *Vehicle communications.* This unit must enable driver-trainees to communicate their intentions to other road users. Driver-trainees must learn techniques for different types of communication on the road, including proper use of headlights, turn signals, four-way flashers, and horns. Instruction in proper utilization of eye contact techniques with other drivers and pedestrians will be covered in this unit.

(C) *Speed management.* This unit must enable driver-trainees to manage speed effectively in response to various road, weather, and traffic conditions. Driver-trainees must understand that driving competency cannot compensate for excessive speed. Instruction must include methods for calibrating safe following distances under an array of conditions including traffic, weather and CMV weight and length.

(D) *Space management.* This unit must teach driver-trainees about the importance of managing the space surrounding the vehicle. Emphasis must be placed upon maintaining appropriate space surrounding the vehicle for safe operation under various traffic and road conditions.

(E) *Night operation.* Driver-trainees will learn the factors affecting the safe operation of CMVs at night and in darkness, including the specific factors that require special attention on the part of the driver. Driver-trainees must be instructed in vehicle safety inspection, vision, communications, speed, and space management and proper use of lights, as needed, to deal with the special problems night driving presents.

(F) *Extreme driving conditions.* This unit addresses the driving of CMVs under extreme conditions. Emphasis must be placed upon the factors affecting the operation of CMVs in cold, hot, and inclement weather and on steep grades and sharp curves. Driver-trainees will learn the changes in basic driving habits needed to deal with the specific problems presented by extreme driving conditions. Driver-trainees will also learn proper tire chaining procedures in this unit.

(iii) *Advanced operating practices.* This component must introduce higher-level skills that can be acquired only after the more fundamental skills and knowledge taught in the prior two sections have been mastered. Driver-trainees must learn about the advanced perceptual skills necessary to recognize potential hazards and must demonstrate the procedures needed to handle a CMV when faced with a hazard.

(A) *Hazard perception.* The unit must provide instruction in recognizing potential hazards in the driving environment in time to reduce the severity of the hazard and neutralize possible emergency situations. Driver-trainees must identify road conditions and other road users that are a potential threat to the safety of the combination vehicle and suggest appropriate adjustments. Emphasis must be placed upon hazard recognition, visual search, adequate surveillance, and response to possible emergency-producing situations encountered by CMV drivers in various traffic situations. Driver-trainees will also learn to recognize potential dangers and the safety procedures that must be utilized while driving in construction/work zones.

(B) *Distracted driving.* Driver-trainees must be instructed in the ''key'' driver distraction issues, including improper cell phone use, texting, and use of in-cab technology. This includes training in the following aspects: Visual attention (keeping eyes on the road); manual control (keeping hands on the wheel); and cognitive awareness (keeping mind on the task and safe operation of the CMV).

(C) *Emergency maneuvers/skid avoidance.* This unit must enable driver-trainees to carry out appropriate responses when faced with CMV emergencies. These must include evasive steering, emergency braking, and off-road recovery, as well as the proper response to brake failures, tire blowouts, hydroplaning, skidding, jackknifing, and rollovers. The discussion must include a review of unsafe acts and the role they play in producing or worsening hazardous situations.

(D) *Skid control and recovery.* This unit must teach the causes of skidding and jackknifing and techniques for avoiding and recovering from them. Driver-trainees must understand the importance of maintaining directional control and bringing the CMV to a stop in the shortest possible distance while operating over a slippery surface.

(E) *Railroad-highway grade crossings.* Driver-trainees will learn to recognize potential dangers and appropriate safety procedures to utilize at railroad (RR)-highway grade crossings. This instruction must include an overview of various State RR grade crossing regulations, RR grade crossing environments, obstructed view conditions, clearance around the tracks, and rail signs and signals.

(F) *Vehicle systems and reporting malfunctions.* This unit must provide entry-level driver-trainees with sufficient knowledge of the combination vehicle and its systems and subsystems to ensure that they understand and respect their role in vehicle inspection, operation, and maintenance and the impact of those factors upon highway safety and operational efficiency.

(G) *Identification and diagnosis of malfunctions, including out-of-service violations.* This unit must teach driver-trainees to identify major combination vehicle systems. The goal is to explain their function and how to check all key vehicle systems, (*e.g.,* engine, engine exhaust auxiliary systems, brakes, drive train, coupling systems, and suspension) to ensure their safe operation. Driver-trainees must be provided with a detailed description of each system, its importance to safe and efficient operation, and what is needed to keep the system in good operating condition. Driver-trainees must further learn what vehicle and driver violations are classified as out-of-service (OOS), including the ramifications and penalties for operating when subject to an OOS order as defined in § 390.5 of this chapter.

(H) *Maintenance.* This unit must introduce driver-trainees to the basic servicing and checking procedures for various engine and vehicle components and to help develop their ability to perform preventive maintenance and simple emergency repairs.

(iv) *Non-vehicle activities.* This component must prepare driver-trainees to handle the responsibilities of a driver that do not involve actually operating the CMV.

(A) *Handling and documenting cargo.* This unit must enable driver-trainees to understand the basic theory of cargo weight distribution, cargo securement on the vehicle, cargo covering, and techniques for safe and efficient loading/unloading. Driver-trainees will learn basic cargo security/cargo theft prevention procedures in this unit. Basic information regarding the proper handling and documentation of HM cargo will also be covered in this unit.

(B) *Environmental compliance issues.* Driver-trainees will learn to recognize environmental hazards and issues related to the CMV and load, and made aware that city, county, State, and Federal requirements may apply to such circumstances.

(C) *Hours of service requirements.* The purpose of this unit is to enable driver-trainees to understand that there are different hours-of-service (HOS) requirements applicable to different industries. Driver-trainees must learn all applicable HOS regulatory requirements. Driver-trainees will develop the ability to complete a Driver's Daily Log (electronic and paper), timesheet, and logbook recap, as appropriate. Driver-trainees will learn the consequences (safety, legal, and personal) of violating the HOS regulations, including the fines and penalties imposed for these types of violations.

(D) *Fatigue and wellness awareness.* The issues and consequences of chronic and acute driver fatigue and the importance of staying alert will be covered in this unit. Driver-trainees must learn regulatory requirements regarding driver wellness and basic health maintenance that affect a driver's ability to safely operate a CMV. This unit also must address issues such as diet, exercise, personal hygiene, stress, and lifestyle changes.

(E) *Post-crash procedures.* Driver-trainees must learn appropriate post-crash procedures, including the requirement that the driver, if possible, assess his/her physical condition immediately after the crash and notify authorities, or assign the task to other individuals at the crash scene. Driver-trainees must also learn how to protect the area; obtain emergency medical assistance; move on-road vehicles off the road in minor crashes so as to avoid subsequent crashes or injuries; engage flashers, placing triangles, and properly use a fire extinguisher, if necessary. The following topics must also be covered: Responsibilities for assisting injured parties; Good Samaritan Laws; driver legal obligations and rights, including rights and responsibilities for engaging with law enforcement personnel; and the importance of learning company policy on post-crash procedures. Driver-trainees must receive instruction in post-crash testing requirements related to controlled substances and alcohol. Driver-trainees must learn the techniques of photographing the scene; obtaining witness information; assessing skid measurements; and assessing signage, road, and weather conditions.

(F) *External communications.* Driver-trainees must be instructed in the value of effective interpersonal communication techniques/skills to interact with enforcement officials. Driver-trainees must be taught the specifics of the roadside vehicle inspection process, and what to expect during this activity. Driver-trainees who are not native English speakers must be instructed in FMCSA English language proficiency requirements and the consequences for violations. Driver-trainees also must learn the implications of violating Federal and state regulations on their driving records and their employing motor carrier's records.

(G) *Whistleblower/coercion.* This unit will advise the driver-trainees about the right of an employee to question the safety practices of an employer without incurring the risk of losing a job or being subject to reprisals simply for stating a safety concern. Driver-trainees must be instructed in the whistleblower protection regulations in 29 CFR part 1978. They must also learn the procedures for reporting to FMCSA incidents of coercion from motor carriers, shippers, receivers, or transportation intermediaries.

(H) *Trip planning.* This unit must address the importance of and requirements for planning routes and trips. This instruction must address planning the safest route, planning for rest stops, heavy traffic areas, railroad-highway grade crossing safe clearance and ground clearance (*i.e.,* ''high center''), the importance of Federal and State requirements on the need for permits, and vehicle size and weight limitations. Driver-trainees must be instructed in the correct identification of restricted routes, the pros and cons of Global Positioning System (GPS)/trip routing software, and the importance of selecting fuel-efficient routes.

(I) *Drugs/alcohol.* In this unit, driver-trainees must learn that there are a variety of rules applicable to drug and alcohol use and must receive the training required by the applicable drug and alcohol regulations, including consequences for engaging in controlled substance (including prescription drugs) and alcohol use-related conduct. The importance of avoiding use of drugs/alcohol in violation of applicable regulations must be covered in this unit.

(J) *Medical requirements.* In this unit, driver-trainees will learn the Federal rules on medical certification, medical examination procedures, general qualifications, responsibilities, and disqualifications based on various offenses, orders, and loss of driving privileges (49 CFR part 391, subparts B and E).

(2) *Range.* This unit must consist of driving exercises related to basic vehicle control skills and mastery of basic maneuvers, as covered in §§ 383.111 and 383.113 of this chapter, necessary to operate the vehicle safely. Activities in this unit will take place on a driving range as defined in § 380.605.

(i) *Vehicle inspection pre-trip/enroute/post-trip.* Driver-trainees must demonstrate proficiency in proper techniques for performing pre-trip, enroute, and post-trip inspections and making accurate notes of actual and suspected component abnormalities or malfunctions using a Driver Vehicle Inspection Report in accordance with the FMCSRs.

(ii) Straight line backing. Driver-trainees must demonstrate proficiency in proper techniques for performing various straight line backing maneuvers to appropriate criteria/acceptable tolerances.

(iii) *Alley dock backing (45/90 degree).* Driver-trainees must demonstrate proficiency in proper techniques for performing 45/90 degree alley dock maneuvers, to appropriate criteria/acceptable tolerances.

(iv) *Off-set backing.* Driver-trainees must demonstrate proficiency in proper techniques for performing off-set backing maneuvers to appropriate criteria/acceptable tolerances.

(v) *Parallel parking blind side.* Driver-trainees must demonstrate proficiency in proper techniques for performing parallel parking blind side positions/maneuvers to appropriate criteria/acceptable tolerances.

(vi) *Parallel parking sight side.* Driver-trainees must demonstrate proficiency in proper techniques for performing sight side parallel parking maneuvers to appropriate criteria/acceptable tolerances.

(3) *Public road.* The instructor must engage in active two-way communication with the driver-trainees during all active training sessions and evaluate the driving competence of the driver-trainees during all public road training. Concepts described in paragraphs (b)(3)(viii) through (xiii) of this section are discussed during public road training or simulated, but not necessarily performed.

(i) *Vehicle controls including: left turn, right turns, lane changes, curves at highway speeds.* Driver-trainees must demonstrate proficiency in proper techniques for initiating vehicle movement, executing left and right turns, changing lanes, navigating curves at speed, and stopping the vehicle in a controlled manner.

(ii) *Shifting/transmission.* Driver-trainees must demonstrate proficiency in proper techniques for performing safe and fuel-efficient shifting and making any necessary adjustments in the process.

(iii) *Communications/signaling.* Driver-trainees must demonstrate proficiency in proper techniques for signaling intentions and effectively communicating with other drivers.

(iv) *Visual search.* Driver-trainees must demonstrate proficiency in proper techniques for visually searching the road for potential hazards and critical objects.

(v) *Speed and space management.* Driver-trainees must demonstrate proficiency in proper habits and techniques for adjusting and maintaining vehicle speed, taking into consideration various factors such as traffic and road conditions. Driver trainees practice maintaining proper speed to keep appropriate spacing between the driver-trainee's CMV and other vehicles. Instruction must include methods for calibrating safe following distances under an array of conditions including traffic, weather, and CMV weight and length.

(vi) *Safe driver behavior.* Driver-trainees must learn and demonstrate proficiency in safe driver behavior during their operation of the CMV.

(vii) *Hours of service (HOS) requirements.* Driver-trainees must demonstrate proficiency in the basic activities required by the HOS regulations, such as completing a Driver's Daily Log (electronic and paper), timesheet, and logbook recap, as appropriate.

(viii) *Hazard perception (partial demonstration).* Driver-trainees must demonstrate their ability to recognize potential hazards in the driving environment in time to reduce the severity of the hazard and neutralize possible emergency situations. Driver-trainees must demonstrate the ability to identify road conditions and other road users that are a potential threat to the safety of the combination vehicle and suggest appropriate adjustments.

(ix) *Railroad (RR)-highway grade crossing (demonstration where railroad grade crossing is available, simulated otherwise).* Driver-trainees must demonstrate the ability to recognize potential dangers and to implement appropriate safety procedures when RR-highway grade crossings are reasonably available.

(x) *Night operation.* Driver-trainees must learn how to operate a CMV safely at night. Heightened emphasis must be placed upon the factors affecting the operation of CMVs at night. Driver-trainees must learn that night driving presents specific circumstances that require heightened attention on the part of the driver. Driver-trainees must be taught special requirements for in-vehicle safety inspection, night vision, communications, speed, and space management, and proper use of lights as needed to prepare driver-trainees to deal with the special problems night driving presents. Though not required to do so, training providers are strongly encouraged to offer driver-trainees night-driving experience where feasible.

(xi) *Extreme driving conditions.* Driver-trainees must be familiar with the special risks created by, and the heightened precautions required by, driving CMVs under extreme driving conditions, such as heavy rain, high wind, high heat, high grades, fog, snow, and ice. Emphasis must be placed upon the factors affecting the operation of CMVs in cold, hot, and inclement weather and on steep grades and sharp curves. Driver-trainees must learn and demonstrate proficiency in changes in basic driving habits needed to deal with the specific challenges presented by these extreme driving conditions. Driver-trainees will also learn proper tire chaining procedures in this unit.

(xii) *Emergency maneuvers/skid avoidance.* Driver-trainees must be familiar with proper techniques for responding to CMV emergencies, such as evasive steering, emergency braking and off-road recovery. They must also know how to prevent or respond to brake failures, tire blowouts, hydroplaning, skidding, jackknifing, and rollovers.

(xiii) *Skid control and recovery.* Driver-trainees must know the causes of skidding and jackknifing and techniques for avoiding and recovering from them. Driver-trainees must know how to maintain directional control and bring the CMV to a stop in the shortest possible distance while operating over a slippery surface.

§ 380.619 Passenger endorsement training curriculum.

(a) This section describes the training requirements and curriculum that a CMV driver seeking a passenger (P) endorsement on his or her CDL must successfully complete in order to receive the P endorsement.

(b) There is no required minimum number of instruction hours for any portion of this training, but the training provider must cover all the topics identified in paragraph (d).

(c) The training must be conducted in a representative vehicle for the P endorsement.

(d) *Passenger bus ''P'' entry-level driver training (ELDT) curriculum.* The passenger endorsement training must, at a minimum, contain the following:

(1) *Theory*—(i) *Post-crash procedures.* Evidence suggests that including ''Post-Crash Procedure'' training early in the driver-training curriculum may enhance the impact of subsequent training and have a positive influence in reducing crashes involving new drivers. Accordingly, driver-trainees must learn appropriate post-crash procedures, including the requirement that the driver, if possible, assess his or her physical condition immediately after the crash and notify authorities, or assign the task to a passenger or other individuals at the crash scene. Also, driver-trainees must learn how to obtain emergency medical assistance; move on-road vehicles off the road in minor crashes so as to avoid subsequent crashes or injuries; engage flashers, placing triangles, and properly use a fire extinguisher if necessary. The following topics must also be covered: responsibilities for assisting injured parties and Good Samaritan Laws; driver legal obligations and rights, including rights and responsibilities for engaging with law enforcement personnel; and the importance of learning company policy on post-crash procedures. Driver-trainees must also learn the techniques of photographing the scene; obtaining witness information, skid measurements; and assessing signage, road, and weather conditions.

(ii) *Other emergency procedures.* Driver-trainees must receive instruction in managing security breaches, on-board fires, medical emergencies, and emergency stopping procedures including the deployment of various emergency hazard signals (49 CFR 392.22). Instruction must also include procedures for dealing with mechanical breakdowns and vehicle defects while enroute.

(iii) *Vehicle orientation.* Driver-trainees must become familiar with basic physical and operational characteristics of a bus, including overall height, length, width, ground clearances, rear overhang, Gross Vehicle Weight and Gross Vehicle Weight Rating, axle weights, tire ratings, mirrors, steer wheels, lighting, windshield, windshield wipers, engine

compartments, basic electrical system, and spare tire storage. Additionally, driver-trainees must receive instruction in techniques for proper seat and mirror adjustments.

(iv) *Pre-trip, enroute, and post-trip inspection.* (A) This unit must underscore the importance of pre-trip, enroute, and post-trip inspections; and provide instruction in techniques for conducting such inspections of buses and key components, including, but not limited to:

(*1*) Bus mechanical condition;

(*2*) Brakes;

(*3*) Tires (including tire pressure);

(*4*) Emergency exits;

(*5*) Emergency equipment;

(*6*) Bus interiors (including passenger seats as applicable);

(*7*) Restrooms and associated environmental requirements;

(*8*) Temperature controls (for maintaining passenger comfort);

(*9*) Driver and passenger seat belts; and

(*10*) Mirrors.

(B) Additionally, driver-trainees must receive instruction in procedures, as applicable, in security-related inspections, including inspections for unusual wires or other abnormal visible materials, interior and exterior luggage compartments, packages or luggage left behind, and signs of cargo or vehicle tampering.

(C) Driver-trainees must receive instruction in cycling-accessible lifts and procedures for inspecting them for functionality and defects.

(v) *Fueling.* Driver-trainees must receive instruction emphasizing the significance of avoiding refueling a bus while passengers are onboard, and the imperative of avoiding refueling in an enclosed space.

(vi) *Idling.* Most States and local jurisdictions impose commercial motor vehicle idling limits, generally to reduce emissions. Idling limits can vary significantly for passenger carriers, with considerations for ambient temperature, safety of passengers, traffic conditions, etc. Driver-trainees must receive instruction regarding the importance of compliance with State and local laws and regulations, including for example, fuel savings; and the consequences of non-compliance, including adverse health effects and penalties.

(vii) *Baggage and/or cargo management.* In this unit, driver-trainees must receive training on:

(A) Proper methods for handling passenger baggage and containers to avoid worker, passenger, and non-passenger (*e.g.,* bystander) related injuries and property damage.

(B) Procedures for visually inspecting baggage and containers for prohibited items such as hazardous materials.

(C) Proper methods for handling and securing passenger baggage and containers, as applicable.

(D) Proper handling and securement of devices associated with the Americans with Disabilities Act (ADA) compliance, including oxygen, wheeled mobility devices, and other associated apparatuses.

(E) Identifying prohibited and acceptable materials such as Class 1 (explosives), Hazardous Materials, articles other than Class 1 (explosive) materials, Division 6.1 (poisonous) or Division 2.3 (poisonous gas), Class 7 (radioactive) materials as specified in 49 CFR part 177 subpart E and removing prohibited materials as appropriate.

(viii) *Passenger safety awareness briefing.* Driver-trainees must receive instruction on briefing passengers on safety topics including fastening seat belts, emergency exits, emergency phone contact information, fire extinguisher location, safely walking in the aisle when the bus is moving, and restroom emergency push button or switch.

(ix) *Passenger management.* In this unit, driver-trainees must receive instruction concerning:

(A) Proper procedures for safe loading and unloading of passengers prior to departure, including rules concerning standing passengers and the Standee Line (49 CFR 392.62).

(B) Procedures for dealing with disruptive passengers.

(x) *Americans with Disabilities Act (ADA) compliance.* Along with learning the proper operation of accessibility equipment (*e.g.,* lifts), driver-trainees must receive instruction regarding the applicable regulations and proper procedures for engaging persons with disabilities or special needs under the ADA. Training must cover passengers with mobility issues, engaging passengers with sight, hearing or cognitive impairments, and recognizing the permitted use of service animals. Driver-trainees must receive sensitivity training and be familiar with applicable regulations (49 CFR part 37 subpart H).

(xi) *Hours of service (HOS) requirements.* Driver-trainees must receive instruction regarding HOS regulations that apply to drivers for interstate passenger carriers. Driver-trainees must receive instruction in the basic activities required by the HOS regulations, such as completing a Driver's Daily Log (electronic and paper), timesheet, and logbook recap, as appropriate. Driver-trainees must receive basic training in how to recognize the signs of fatigue, and basic fatigue countermeasures as a means to avoid crashes.

(xii) *Safety belt safety.* Driver-trainees must be instructed in the Federal rules (§ 392.16 of this chapter) governing the proper use of safety restraint systems (*i.e.,* seat belts) by CMV drivers.

(xiii) *Distracted driving.* Driver-trainees must receive instruction regarding FMCSA regulations that prohibit bus drivers from texting or using hand-held mobile phones while operating their vehicles; and must be instructed in the serious consequences of violations, including crashes, heavy fines, impacts on a motor carrier's and/or driver's safety records, and/or driver disqualification.

(xiv) *Railroad (RR)-highway grade crossings.* This unit must instruct driver-trainees in applicable regulations, techniques, and procedures for navigating RR-highway grade crossings appropriate to passenger buses.

(xv) *Weigh station obligations.* Driver-trainees must receive instruction regarding weigh-station regulations that apply to buses and the fines applicable to drivers who unlawfully pass or avoid weigh stations.

(xvi) *Security and crime.* Driver-trainees must receive instruction in basic techniques for recognizing and minimizing risks from criminal activities.

(xvii) *Commercial Vehicle Safety Alliance (CVSA) North American out-of-service criteria.* Driver-trainees must receive instruction in the applicable regulations for conducting CVSA Level I–VII inspections for buses, including the vehicle defects and driver violations that can result in out-of-service (OOS) orders, and consequences for violating OOS orders. Training providers should provide driver-trainees with a CVSA manual.

(xviii) *Penalties and fines.* Driver-trainees must receive instruction concerning the potential consequences of violating driver-related regulations, including impacts on driver and motor carrier safety records, adverse impacts on the driver's Pre-employment Screening Program record; financial penalties for both the driver and carrier; and possible loss of CMV driving privileges.

(2) *Range and public road.* The instructor must engage in active two-way communication with the driver-trainees during all active training sessions and evaluate the driving competence of the driver-trainees during all road training.

(i) *Commercial Vehicle Safety Alliance (CVSA) North American out-of-service criteria.* Driver-trainees must

demonstrate their knowledge of applicable regulations for conducting CVSA Level I–VII inspections for buses, including the vehicle defects and driver violations that can result in out-of-service (OOS) orders, and consequences for violating OOS orders. Training providers should furnish driver-trainees with a CVSA manual.

(ii) *Vehicle orientation.* Training providers must familiarize driver-trainees with basic bus physical and operational characteristics including overall height, length, width, ground clearances, rear overhang, gross vehicle weight and gross vehicle weight rating, axle weights, tire ratings, mirrors, steer wheels, lighting, windshield, windshield wipers, engine compartments, basic electric system, and spare tire storage. Additionally, driver-trainees must receive instruction in techniques for proper seat and mirror adjustments.

(iii) *Pre-trip, enroute, and post-trip inspection.* (A) Driver-trainees must demonstrate their ability to conduct such pre-trip, enroute and post-trip inspections of buses and key components, including, but not limited to:

(*1*) Bus mechanical condition;

(*2*) Brakes;

(*3*) Tires (including tire pressure);

(*4*) Emergency exits;

(*5*) Emergency Equipment;

(*6*) Bus interiors (including passenger seats as applicable);

(*7*) Restrooms and associated environmental requirements;

(*8*) Temperature controls (for maintaining passenger comfort);

(*9*) Driver and passenger seat belts; and

(*10*) Mirrors.

(B) Additionally, driver-trainees must demonstrate their knowledge of procedures, as applicable, in security-related inspections, including inspections for unusual wires or other abnormal visible materials, interior and exterior luggage compartments, packages or luggage left behind, and signs of cargo or vehicle tampering.

(C) Driver-trainees must know how to operate cycling-accessible lifts and the procedures for inspecting them for functionality and defects.

(iv) *Baggage and/or cargo management.* In this unit, driver-trainees must demonstrate their ability to:

(A) Properly handle passenger baggage and containers to avoid worker, passenger, and non-passenger related injuries and property damage;

(B) Visually inspect baggage and containers for prohibited items such as hazardous materials;

(C) Properly handle and secure devices associated with ADA compliance including oxygen, wheeled mobility devices, and other associated apparatuses; and

(D) Identify prohibited and acceptable Class 1 (explosives), Hazardous Materials, articles other than Class 1 (explosive) materials, Division 6.1 (poisonous) or Division 2.3 (poisonous gas), Class 7 (radioactive) materials as specified in 49 CFR part 177 subpart E and remove prohibited materials as appropriate.

(iv) *Passenger safety awareness briefing.* Driver-trainees must demonstrate their ability to brief passengers on safety on topics including: fastening seat belts, emergency exits, emergency phone contact information, fire extinguisher location, safely walking in the aisle when the bus is moving, and restroom emergency push button or switch.

(v) *Passenger management.* In this unit, driver-trainees must demonstrate their ability to safely load and unload passengers prior to departure and to deal with disruptive passengers.

(vi) *Railroad-highway grade crossings.* This unit must instruct driver-trainees in applicable regulations, techniques, and procedures for navigating railroad crossings appropriate to passenger buses.

§ 380.621 School bus endorsement training curriculum.

(a) This section sets forth the training requirements and curriculum that a CMV driver seeking a school bus endorsement (S) on his or her CDL must successfully complete in order to receive the S endorsement.

(b) There is no required minimum number of instruction hours for any portion of this training, but the training provider must cover all the topics identified in paragraph (d).

(c) The training must be conducted in a representative vehicle for the S endorsement involved.

(d) *School bus (S) entry-level driver training curriculum.* The school bus endorsement training must, at a minimum, include the following:

(2) *Theory*—(i) *Danger zones and use of mirrors.* This unit must instruct driver-trainees regarding the danger zones that exist around the school bus and the techniques to ensure the safety of those around the bus. These techniques include correct mirror adjustment and usage. The types of mirrors and their use must be discussed, as well as the requirements found in Federal Motor Vehicle Safety Standard (FMVSS) 111 (49 CFR 571.111). Driver-trainees must be informed of the dangers of ''dart-outs.'' Driver-trainees also must be instructed on the importance of training students how to keep out of the danger zone when around school buses and the techniques for doing so.

(ii) *Loading and unloading.* Driver-trainees must be instructed on the State and local laws and procedures for loading and unloading, as well as the required procedures for students waiting at a bus stop and crossing the roadway at a bus stop. Special dangers involved in loading and unloading must be specifically discussed, including procedures to ensure the danger zone is clear and that no student has been caught in the doorway prior to moving the vehicle Instruction also must be included on the proper use of lights, stop arms, crossing gates, and safe operation of the door during loading and unloading; the risks involved with leaving students unattended on a school bus; and the proper techniques for checking the bus for sleeping children and lost items at the end of each route.

(iii) *Post-crash procedures.* This unit must instruct driver-trainees instruction on the proper procedures following a school bus crash. Training must include instruction on tending to injured passengers, post-crash vehicle securement, notification procedures, deciding whether to evacuate the bus, data gathering, and interaction with law enforcement officials.

(iv) *Emergency exit and evacuation.* Driver-trainees must receive instruction on their role in safely evacuating the bus in an emergency and planning for an emergency in advance. Training must include proper evacuation methods and procedures, such as the safe evacuation of students on field and activity trips who only occasionally ride school buses and thus may not be familiar with the procedures.

(v) *Railroad-highway grade crossings.* Driver-trainees are made aware of the dangers trains present and the importance of the school bus driver and students strictly following railroad crossing procedures. Instruction must be given on the types of crossings, warning signs and devices, and State and local procedures and regulations for school buses when crossing railroad-highway grade crossings.

(vi) *Student management.* Driver-trainees must receive instruction on their responsibility to manage student behavior on the bus to ensure that safety is maintained and the rights of others are respected. Specific student management techniques must be discussed, including warning signs of bullying and the techniques for managing student behavior and

administering discipline. Driver-trainees must learn techniques to avoid becoming distracted by student behavior while driving, especially when crossing railroad tracks and during loading and unloading. Driver-trainees also must learn techniques for handling serious problems arising from student behavior.

(vii) *Antilock-braking systems.* Driver-trainees must be provided an overview of anti-lock braking systems (ABS). Topics discussed must include which vehicles are required to have ABS, how ABS helps the driver, techniques for braking with ABS, procedures to follow if ABS systems malfunction, and general ABS safety reminders.

(viii) *Special safety considerations.* This unit must cover special safety considerations and equipment in school bus operations. Topics discussed must include use of strobe lights, driving in high winds, safe backing techniques, and preventing tail swing crashes.

(ix) *Pre- and post-trip inspections.* Driver-trainees must receive an overview of the pre- and post-trip inspection requirements unique to school bus equipment, such as mirrors, stop arms, crossing arms, emergency exits, fire extinguishers, passenger seats, first aid kits, interior lights, and internal vehicle conditions. Driver-trainees must be instructed in State and local procedures, as applicable, for inspection of school bus equipment.

(x) *School bus security.* This unit must cover the security issues facing school bus drivers. Driver-trainees must be made aware of potential security threats, techniques for preventing and responding to security threats, how to recognize and report suspicious behavior, and what to do in the event of a hijacking or attack on a school bus.

(xi) *Route and stop reviews.* Driver-trainees must be made aware of the importance of planning their routes prior to beginning driving in order to avoid distraction while on the road. They must learn techniques for reviewing routes and stops, as well as State and local procedures for reporting hazards along the route and at bus stops.

(xii) *Night operation.* Driver-trainees must learn about the special challenges presented when operating a school bus at night and the techniques for driving safely at times of darkness, such as during a thunderstorm.

(2) *Range and public road*—(i) *Danger zones and use of mirrors.* Driver-trainees must demonstrate the techniques necessary to ensure the safety of persons in the danger zone around the bus. Driver-trainees must be practice mirror adjustment and usage. The types of mirrors and their use are shown and cones are set up to demonstrate the requirements of 49 CFR 571.111.

(ii) *Loading and unloading.* Driver-trainees must practice the loading and unloading techniques learned in the theory portion of the training. Driver-trainees must practice checking the vehicle for sleeping children and lost items at the end of the route.

(iii) *Emergency exit and evacuation.* Driver-trainees must practice their role in safely evacuating the bus in an emergency.

(iv) *Special safety considerations.* Driver-trainees must practice safe backing techniques and demonstrate their ability to avoid tail swing crashes by using reference points when making turns.

(v) *Pre- and post-trip inspections.* Driver-trainees must practice pre-and post-trip inspections of school bus-specific equipment, such as mirrors, stop arms, crossing arms, emergency exits, fire extinguishers, passenger seats, first aid kits, interior lights, and internal vehicle conditions.

(vi) *Railroad-highway grade crossings.* Driver-trainees must practice proper procedures for safely crossing railroad-highway grade crossing in a school bus.

§ 380.623 Hazardous materials endorsement training curriculum

(a) This section sets forth the training requirements and curriculum that a CMV driver seeking a hazardous materials endorsement (H) on his or her CDL must successfully complete in order to receive the H endorsement.

(b) There is no required minimum number of instruction hours for theory training, but the training provider must cover all the topics in the curriculum in paragraph (c) of this section.

(c) *Hazardous materials entry-level driver training curriculum.* The hazardous materials (HM) curriculum must, at a minimum, include the following:

(1) *Theory*—(i) *Basic introductory HM requirements.* Driver-trainees must learn the basic HM competencies, including applicability requirements when HM is being transported. Driver-trainees must also be instructed in the HM communication requirements including: shipping paper requirements; marking; labeling; placarding; emergency response information; and shipper's responsibilities.

(ii) *Operational HM requirements.* Driver-trainees must learn the basic competencies for transportation of HM (*i.e.,* vehicle operation).

(iii) *Reporting HM crashes and releases.* Driver-trainees must learn the proper procedures and contacts for the immediate notification related to certain HM incidents, including instruction in the proper completion and submission of HM Incident Reports.

(iv) *Tunnels and railroad (RR)-highway grade crossing requirements.* Driver-trainees must learn the proper operation of an HM vehicle at RR-highway grade crossings and in vehicular tunnels.

(v) *Loading and unloading HM.* Driver-trainees must learn the proper loading and unloading procedures for hazardous material cargo. Driver-trainees must also learn the requirements for proper segregation and securement of HM, and the prohibitions on transporting certain solid and liquid poisons with foodstuffs.

(vi) *HM on passenger vehicles.* Driver-trainees must learn the various requirements for vehicles transporting passengers and property, and the types and quantities of HM that can and cannot be transported in these vehicles/situations.

(vii) *Bulk packages.* (A) Driver-trainees must learn the specialized requirements for transportation of cargo in bulk packages, including cargo tanks, intermediate bulk containers, bulk cylinders and portable tanks. The unit must include training in the operation of emergency control features, special vehicle handling characteristics, rollover prevention, and the properties and hazards of the HM transported.

(B) Driver-trainees must learn methods specifically designed to reduce cargo tank rollovers including, but not limited to, vehicle design and performance, load effects, highway factors, and driver factors.

(viii) *Operating emergency equipment.* Driver-trainees must learn the applicable requirements of the FMCSRs and the procedures necessary for the safe operation of the motor vehicle. This includes training in special precautions for fires, loading and unloading, operation of cargo tank motor vehicle equipment, and shut-off/shut-down equipment.

(ix) *Emergency response procedures.* Driver-trainees must learn the proper procedures and best practices for handling an emergency response and post-response operations, including what to do in the event of an unintended release of an HM. All training, preparation, and response efforts must focus on the hazards of the materials that have been released; and the protection of people, property, and the environment.

(x) *Engine (fueling).* Driver-trainees must learn the procedures for fueling a vehicle that contains HM.

(xi) *Tire check.* Driver-trainees must learn the proper procedures for

checking the vehicle tires at the start of a trip and each time the vehicle is parked.

(xii) *Routes and route planning.* Driver-trainees must learn the proper routing procedures that they are required to follow for the transportation of radioactive and non-radioactive HM.

(xiii) *Hazardous materials safety permits (HMSP).* Driver-trainees must be instructed in the proper procedures and operational requirements including communications, constant attendance, and parking that apply to the transportation of an HM for which an HMSP is required.

§ 380.625 Refresher training curriculum.

(a) This section sets forth the training requirements and curriculum that a CDL holder who is disqualified from operating a CMV, must complete in order to reapply for a CDL.

(b) There is no required minimum number of instruction hours for any portion of the curriculum, but the training provider must cover all the topics in the curriculum in paragraph (d) of this section.

(c) The training must be conducted in a representative vehicle consistent with the driver's CDL Class and/or endorsement for which the driver is reapplying.

(d) *Entry-level driver training refresher curriculum.* The refresher curriculum must, at a minimum, include the following:

(1) *Theory*—(i) *Post-crash procedures.* Including post-crash procedure training early in the curriculum may enhance the impact of subsequent training and have a positive influence in reducing crashes. Accordingly, driver-trainees must learn appropriate post-crash procedures, including the requirement that, if possible, the driver assess his or her physical condition immediately after the crash and notify authorities, or assign the task to other individuals at the crash scene. Also, driver-trainees must learn how to obtain emergency medical assistance; move on-road vehicles off the road in minor crashes so as to avoid subsequent crashes or injuries; engage flashers; and place triangles. The following topics must also be covered: responsibilities for assisting injured parties and Good Samaritan Laws; driver legal obligations and rights, including rights and responsibilities for engaging with law enforcement personnel; and the importance of learning company policy on post-crash procedures. Driver-trainees must also learn the techniques of photographing the scene; obtaining witness information; skid measurements; and assessing signage, road, and weather conditions.

(ii) *Alcohol and controlled substances.* Driver-trainees must be instructed in the Federal regulations on driving under the influence of alcohol or controlled substances and the potential consequences for violating the regulations. (See part 382 and §§ 392.4 and 392.5 of this chapter)

(iii) *Driver fatigue and wellness.* Driver-trainees must be instructed in the extreme safety risks associated with fatigued driving, and the risks and potential consequences, including legal consequences for the driver, of causing a crash due to fatigued driving.

(iv) *Hours of service (HOS) and records of duty status/logbooks.* Driver-trainees must learn the basic applicable concepts and HOS requirements; and must practice completing a Driver's Daily Log (electronic and paper), timesheet, and logbook recap as appropriate.

(v) *Seat belt safety.* Driver-trainees must be instructed in the Federal rules (§ 392.16 of this chapter) governing the proper use of safety restraint systems (*i.e.,* seat belts) by CMV drivers.

(vi) *Distracted driving.* Driver-trainees must be instructed in the ''key'' driver distraction issues, including improper cell phone use, texting, and use of in-cab technology. This includes training in the following aspects: visual attention (keeping eyes on the road); manual control (keeping hands on the wheel); and cognitive awareness (keeping mind on the task and safe operation of the CMV).

(vii) *Serious traffic violations while operating a CMV.* Driver-trainees must be instructed in Federal regulations in § 383.51 of this chapter pertaining to the potential disqualification of drivers for violations such as following too closely; improper lane changes; driving 15 mph or more over the speed limit; and reckless driving.

(viii) *CDL holder committing serious traffic violations while operating a non-CMV.* Driver-trainees must be instructed in Federal regulations in § 383.51 of this chapter pertaining to the potential disqualification of drivers—for driving violations off the job, *i.e.,* while not operating a CMV. Driver-trainees must learn that CDL holders are held to a higher standard as the CDL is a professional license.

(ix) *Safe operating procedures.* Driver-trainees must be taught how to apply their basic operating skills in a way that ensures their safety and that of other road users under various road, weather, and traffic conditions as follows.

(x) *Visual search.* Driver-trainees must be taught how to visually search the road for potential hazards and critical objects, including instruction on recognizing distracted pedestrians and/or distracted drivers. This unit must include instruction in how to ensure a driver-trainee's personal security/general awareness in common surroundings such as truck stops, rest areas, and at shipper/receiver locations.

(xi) *Vehicle communications.* This unit must enable driver-trainees to communicate their intentions to other road users (*e.g.,* proper signaling). Driver-trainees must learn techniques for different types of communication on the road, including proper use of headlights, turn signals, four-way flashers, and horns. Instruction in proper utilization of eye contact techniques with other drivers and pedestrians must be covered in this unit.

(xii) *Speed management.* This unit must instruct driver-trainees in managing speed effectively in response to various road, weather, and traffic conditions. Driver-trainees must understand that driving competency cannot compensate for excessive speed. Instruction must include methods for calibrating safe following distances under an array of conditions including traffic, weather and CMV weight and length.

(xiii) *Space management.* In this unit driver-trainees will learn how to manage the space around the vehicle for safe operation. Emphasis must be placed upon maintaining appropriate space surrounding the vehicle under various traffic and road conditions.

(xiv) *Night operation.* Driver-trainees must be instructed in how to operate a CMV safely at night. Heightened emphasis must be placed upon the factors affecting the safe operation of CMVs at night and in darkness. Driver-trainees must understand that night driving presents specific factors that require special attention on the part of the driver. Driver-trainees must be instructed in special requirements for vehicle safety inspection, vision, communications, speed, space management and proper use of lights, as needed, to deal with the unique problems night driving presents.

(xv) *Extreme driving conditions.* This unit must provide instruction addressing driving under extreme conditions. Emphasis must be placed upon the factors affecting the operation of CMVs in cold, hot, and inclement weather and on steep grades and sharp curves. Driver-trainees must understand the changes in basic driving habits needed to deal with the specific problems presented by these conditions. Driver-trainees also must be instructed

in proper tire chaining procedures in this unit.

(2) *Advanced operating practices.* Driver-trainees must learn the perceptual skills necessary to recognize potential hazards.

(i) *Hazard perception.* The unit must provide instruction in recognizing hazards in time to reduce the severity of the hazard and neutralize possible emergency situations. Driver-trainees must learn to identify road conditions and other road users who are a potential threat to the safety of the combination vehicle and suggest appropriate adjustments, *e.g.* defensive maneuvers. Emphasis must be placed upon hazard recognition, visual search, adequate surveillance, and response to possible emergency-producing situations encountered by CMV drivers. Driver-trainees also must be instructed to recognize potential dangers and the appropriate safety procedures to utilize while driving in construction/work zones.

(ii) *Emergency maneuvers/skid avoidance.* This unit must prepare driver-trainees to carry out appropriate responses when faced with CMV emergencies, such as evasive steering, emergency braking, and off-road recovery. Driver-trainees must also learn how to respond to brake failures, tire blowouts, hydroplaning, skidding, jackknifing, and rollovers. The discussion must include a review of unsafe acts and the role they play in producing hazardous situations.

(iii) *Skid control and recovery.* This unit must teach the causes of skidding and jackknifing and techniques for avoiding and recovering from them. Driver-trainees must be able to maintain directional control and bring the CMV to a stop in the shortest possible distance while operating over a slippery surface.

(iv) *Railroad (RR)-highway grade crossings.* Driver-trainees must learn to recognize potential dangers and appropriate safety procedures to utilize at RR-highway grade crossings, including an overview of various State RR-highway grade crossing regulations. Instruction must also include the following topics: RR-highway grade crossing environment, obstructed view, clearance around the tracks, and knowledge of rail signs and signals.

(v) *Roadside inspection/communication with law enforcement.* Driver-trainees must be taught the value of effective interpersonal communications and skills to properly interact with law enforcement officials during the roadside CMV inspection process and what to expect during this activity.

(vi) *Medical certificate/personal health and wellness.* Driver-trainees must learn the Federal regulations in subpart E of part 391 of this chapter on medical certification and medical examination procedures. Driver-trainees must learn about driver wellness, basic health maintenance including diet and exercise, and the importance of avoiding excessive use of alcohol.

(v) *Whistleblower/coercion.* The right of an employee to question the safety practices of an employer without incurring the risk of losing a job, or being subject to reprisals simply for stating a safety concern must be included in this unit. Driver-trainees must become familiar with the whistleblower protection regulations in 29 CFR part 1978. Driver-trainees must learn procedures for reporting to FMCSA incidents of coercion from motor carriers, shippers, receivers, or transportation intermediaries.

(vi) *Driver/public safety importance.* Training must emphasize the fact that the CMV driver is the most important component of the motor carrier operation and highway/public safety. Driver-trainees must understand they are responsible for the safety of the operation, the load, and the equipment.

(vii) *Emergency stopping, crashes, incidents.* Driver-trainees must be instructed in carrying out the appropriate responses when faced with CMV emergencies. This instruction must specifically include discussion of evasive steering, emergency braking and off-road recovery, as well as the proper response to brake failures, tire blowouts, hydroplaning, skidding, jackknifing, and rollovers. This instruction must include a review of unsafe acts and the role they play in producing hazardous situations.

(3) *Range*—(i) *Pre-trip and post-trip inspections.* Driver-trainees must learn the importance of vehicle inspections and must develop the skills necessary for conducting pre-trip, enroute, and post-trip inspections. Driver-trainees must demonstrate the ability to perform a pre-trip inspection under 49 CFR 396.13 and a post-trip inspection under § 396.11 of this chapter. This unit must include a review of CMV parts and accessories including brakes and components.

(ii) *Load securement.* Driver-trainees must learn the basic theory of cargo weight distribution, cargo securement on the vehicle, cargo covering, and demonstrate techniques for safe and efficient loading, and properly securing the cargo under 49 CFR 392.9 and §§ 393.100 through 393.136 of this chapter.

(4) *Public road.* Driver-trainees demonstrate the practices required for safe operation of the CMV on a public road. This unit must include training in basic operation and vehicle maneuvers under § 391.31 (Skills and Knowledge) of this chapter. Driver-trainees must be taught how to apply their basic operating skills in a way that ensures their safety and that of other road users under various road, weather, and traffic conditions.

■ 4. Add subpart G to read as follows:

Subpart G—Registry of Entry-Level Driver Training Providers

Sec.
380.700 Scope.
380.703 Requirements for the training provider registry.
380.707 Entry-level training provider.
380.709 Facilities.
380.711 Equipment.
380.713 Driver-instructor qualifications/requirements.
380.715 Assessments.
380.717 Training certification.
380.719 Requirements for continued listing on the training provider registry.
380.721 Removal from Training Provider Registry: factors considered.
380.723 Removal from Training Provider Registry: procedure.
380.725 Documentation and record retention.

Subpart G—Registry of Entry-Level Driver Training Providers

§ 380.700 Scope.

The rules in this subpart establish the eligibility requirements for listing on FMCSA's Training Provider Registry (TPR). Drivers seeking ELDT may use only providers listed on the TPR to comply with this part.

§ 380.703 Requirements for the training provider registry.

(a) To be eligible for listing on the TPR, an entity must:

(1) Follow a curriculum that meets the criteria set forth in § 380.613, 380.615, 380.619, 380.621, 380.623, or 380.625, as applicable;

(2) Utilize facilities that meet the criteria set forth in § 380.709;

(3) Utilize vehicles that meet the criteria set forth in § 380.711;

(4) Utilize driver training instructors that meet the criteria set forth in § 380.713;

(5) Allow FMCSA or its authorized representative to audit or investigate the training provider's operations to ensure that the provider meets the criteria set forth in this section.

(6) Submit to FMCSA an Entry-Level Driver Training Provider Identification Report and attest that the training provider meets all the applicable requirements of this section to obtain a

unique TPR number. If a training provider has more than one campus or training location, the training provider must submit an Entry-Level Driver Training Provider Identification Report for each campus or training location in order to obtain a unique TPR number for each location.

(7) Create and maintain driver-trainee records of completion and/or withdrawal in accordance with § 380.725.

(b) When a provider meets the requirements of §§ 380.703 and 380.707, FMCSA will issue the provider a unique TPR number and add the provider's name and contact information to the TPR Web site.

§ 380.707 Entry-level training provider.

(a) Training providers must require that all accepted applicants for public road training meet minimum U.S. DOT regulations—as well as other Federal, State, and/or local laws—related to drug screening, controlled substances testing, age, medical certification, licensing, and driving record.

(b) Behind-the-wheel (BTW) driving (range and public road), must include the required driving maneuvers in § 380.613, 380.615, 380.619, 380.621, or 380.625, as applicable.

(c) Theory and range instruction must include all elements identified in § 380.613, 380.615, 380.619, 380.621, 380.623, or 380.625, as applicable.

(d) Providers that train more than three driver-trainees annually must provide training materials to each driver-trainee that address the applicable curriculum identified in § 380.613, 380.615, 380.619, 380.621, 380.623, or 380.625. Providers that train three or fewer driver-trainees are not subject to this requirement.

(e) Separate training providers may deliver the theory and BTW portions of the training.

§ 380.709 Facilities.

(a) The training provider's classroom and range facilities must comply with all applicable Federal, State, and/or local statutes and regulations.

(b) Training providers who teach the range portion of the curriculum must have an instructor present on site to demonstrate applicable skills and correct deficiencies of individual students.

(c) The range must be free of obstructions, enable the driver to maneuver safely and free from interference from other vehicles and hazards, and have adequate sight lines.

§ 380.711 Equipment.

(a) All vehicles used in the behind-the-wheel (BTW) range training must be in safe mechanical condition.

(b) Vehicles used for BTW road training must comply with applicable Federal and State safety requirements.

(c) Training vehicles must be in the same class (A or B) and type (bus or truck) that driver-trainees intend to operate for their CDL skills test.

§ 380.713 Driver-instructor qualifications/requirements.

(a) Theory training providers must utilize instructors who are either an experienced driver or a theory instructor as defined in § 380.605.

(b) BTW training providers must utilize experienced drivers as defined in § 380.605. BTW training instructors, during the two years prior to engaging in BTW instruction, must not have had any CMV-related convictions for the offenses identified in § 383.51(b) through (e). Training providers must utilize only public road BTW instructors whose driving record meets applicable Federal and State requirements.

§ 380.715 Assessments.

Driver-trainees must successfully complete a course of instruction that meets the applicable entry-level driver training curriculum requirements.

(a) Training providers must use assessments (in written or electronic format) to demonstrate driver-trainees' proficiency in the knowledge objectives in the theory portion of each unit of instruction in § 380.613, 380.615, 380.619, 380.621, 380.623, or 380.625. The driver-trainee must receive an overall score of 80% or above on the assessment.

(b) Training instructors must assess driver-trainee proficiency on the range in pre-trip inspections, fundamental vehicle control skills, and routine driving procedures for the appropriate vehicle in accordance with the curricula in § 380.613, 380.615, 380.619, 380.621, or 380.625.

(c) Training instructors must evaluate a driver-trainee's proficiency in BTW driving skills on a public road. The instructor must observe specified driving maneuvers required in § 380.613, 380.615, 380.619, 380.621, or 380.625, as applicable. BTW public road assessments must be administered in a vehicle of the class (A or B) and type (bus or truck) that the driver-trainees will operate for the CDL skills test.

§ 380.717 Training certification.

After an individual successfully completes training administered by a provider on the TPR, that provider must, by close of the next business day after the driver-trainee completes the training, upload the training certification including the following:

(a) Driver-trainee name, CDL/CLP number, and State of licensure;

(b) Vehicle class and/or endorsement training the driver-trainee received;

(c) Name of the training provider and its unique TPR identification number; and

(d) Date of successful training completion.

§ 380.719 Requirements for continued listing on the training provider registry.

(a) To be eligible for continued listing on the TPR, a provider must:

(1) Meet the requirements of this subpart and the applicable requirements of elements of § 380.703 of this chapter.

(2) Biennially provide an updated Entry-Level Driver Training Provider Identification Report to FMCSA.

(3) Report to FMCSA changes to key information, as identified in paragraph (a)(3)(i) of this section, submitted under § 380.703 within 30 days of the change.

(i) Key information is defined as training provider name, address, phone number, type of training offered, training provider status, and any change in State licensure, certification, or accreditation status.

(ii) Changes must be reported by submitting an updated Entry-Level Driver Training Provider Identification Report to FMCSA.

(4) Be licensed, certified, registered, or authorized to provide training in accordance with the applicable laws and regulations of each State where training is provided.

(5) Maintain documentation of State licensure, registration, or certification verifying that the provider is authorized to provide training in that State, if applicable.

(6) Allow an audit or investigation of the training provider to be completed by FMCSA or its authorized representative, if requested.

(7) Ensure that all required documentation is available upon request to FMCSA or its authorized representative. The provider must submit this documentation within 48 hours of the request.

§ 380.721 Removal from Training Provider Registry: factors considered.

FMCSA may remove a provider from the TPR when a provider fails to meet or maintain the qualifications established by this subpart or the requirements of other State and Federal regulations applicable to the provider. If FMCSA removes a provider from the TPR, all training certificates issued after

the removal date will be considered invalid.

(a) The factors FMCSA may consider for removing a provider from the TPR include, but are not limited to, the following:

(1) The provider fails to comply with the requirements for continued listing on the TPR, as described in § 380.719.

(2) The provider denies FMCSA or its authorized representatives the opportunity to conduct an audit or investigation of its training operations.

(3) The audit or investigation conducted by FMCSA or its authorized representatives identifies material deficiencies, pertaining to the training provider's program, operations, or eligibility.

(4) The provider falsely claims to be licensed, certified, registered, or authorized to provide training in accordance with the applicable laws and regulations in each State where training is provided.

(5) The SDLA CDL exam passage rate of those individuals who complete the provider's training is abnormally low. FMCSA is not establishing a minimum required passage rate, but will use this information in the context of State norms.

(b) In instances of fraud or other criminal behavior by a training provider in which driver-trainees have knowingly participated, FMCSA reserves the right, on a case-by-case basis, to retroactively deem invalid training certificates that were issued by training providers removed from the TPR.

§ 380.723 Removal from Training Provider Registry: procedure.

(a) *Voluntary removal.* To be voluntarily removed from the Training Provider Registry (TPR), a provider must submit written notice to FMCSA's Director, Office of Carrier, Driver, and Vehicle Safety Standards (Director). Upon receiving the written notice, FMCSA will remove the training provider from the TPR. On and after the date of issuance of a notice of proposed removal from the TPR issued in accordance with paragraph (b) of this section, such voluntary removal notice will not be effective.

(b) *Notice of proposed removal.* Except as provided by paragraphs (a) and (e) of this section, FMCSA initiates the process for removal of a provider from the TPR by issuing a written notice to the provider, stating the reasons for the proposed removal and setting forth any corrective actions necessary for the provider to remain listed on the TPR. If a notice of proposed removal is issued, the provider must notify current driver-trainees and driver-trainees scheduled for future training of the proposed removal. In addition, no training conducted after issuance of the notice of proposed removal will be considered to comply with this subpart until FMCSA withdraws the notice.

(c) *Response to notice of proposed removal and corrective action.* A training provider that has received a notice of proposed removal and wishes to remain on the TPR must submit a written response to the Director no later than 30 days after the date of issuance of the notice explaining why it believes that decision is not proper, as described in paragraph (c)(1) of this section. Alternatively, the provider will set forth corrective actions taken in response to FMCSA's notice of proposed removal, as described in paragraph (c)(2) of this section.

(1) *Opposing a notice of proposed removal.* If the provider believes FMCSA has relied on erroneous information in proposing removal from the TPR, the provider must explain the basis for that belief and provide supporting documentation. The Director will review the explanation.

(i) If the Director finds that FMCSA has relied on erroneous information to propose removal of a training provider from the TPR, the Director will withdraw the notice of proposed removal and notify the provider of the withdrawal in writing.

(ii) If the Director finds FMCSA has not relied on erroneous information in proposing removal, the Director will affirm the notice of proposed removal and notify the provider in writing of the determination. No later than 60 days after the date the Director affirms the notice of proposed removal, the provider must comply with this subpart and correct the deficiencies identified in the notice of proposed removal as described in paragraph (c)(2) of this section.

(iii) If the provider does not respond in writing within 30 days of the date of issuance of a notice of proposed removal, the removal becomes effective immediately and the provider will be removed from the TPR.

(2) *Compliance and corrective action.* (i) The provider must comply with this subpart and complete the corrective actions specified in the notice of proposed removal no later than 60 days after either the date of issuance of the notice of proposed removal or the date the Director affirms or modifies the notice of proposed removal, whichever is later. The provider must provide documentation of compliance and completion of the corrective action(s) to the Director. The Director may conduct an investigation and request any documentation necessary to verify that the provider has complied with this subpart and completed the required corrective action(s). The Director will notify the provider in writing whether it has met the requirements for continued listing on the TPR.

(ii) If the provider fails to complete the proposed corrective action(s) within the 60-day period, the provider will be removed from the TPR. The Director will notify the provider in writing of the removal.

(3) At any time before a notice of proposed removal from the TPR becomes final, the recipient of the notice of proposed removal and the Director may resolve the matter by mutual agreement.

(d) *Request for administrative review.* If a provider has been removed from the TPR under paragraph (c)(1)(iii), (c)(2)(ii), or (e) of this section, the provider may request an administrative review no later than 30 days after the effective date of the removal. The request must be submitted in writing to the FMCSA Associate Administrator for Policy (Associate Administrator). The request must explain the alleged error(s) committed in removing the provider from the TPR, and include all factual, legal, and procedural issues in dispute, as well as any supporting documentation.

(1) *Additional procedures for administrative review.* The Associate Administrator may ask the provider to submit additional information or attend a conference to discuss the removal. If the provider does not provide the information requested, or does not attend the scheduled conference, the Associate Administrator may dismiss the request for administrative review.

(2) *Decision on administrative review.* The Associate Administrator will complete the administrative review and notify the provider in writing of the decision. The decision constitutes final Agency action. If the Associate Administrator deems the removal to be invalid, FMCSA will reinstate the provider's listing on the TPR.

(e) *Emergency removal.* In cases of fraud, criminal behavior, or willful disregard of the regulations in this subpart or in which public health, interest, or safety requires, the provisions of paragraph (b) of this section are not applicable. In these cases, the Director may immediately remove a provider from the TPR. In instances of fraud or other criminal behavior by a training provider in which driver-trainees have knowingly participated, FMCSA reserves the right to retroactively deem invalid training

certificates issued under § 380.717. A provider who has been removed under the provisions of this paragraph may request an administrative review of that decision as described under paragraph (d) of this section.

(f) *Reinstatement to the Training Provider Registry.* (i) Any time after a training provider's voluntary removal from the TPR, the provider may apply to the Director to be reinstated.

(ii) No sooner than 30 days after the date of a provider's involuntary removal from the TPR, the provider may apply to the Director to be reinstated. In the case of an involuntarily removal, the provider must submit documentation showing completion of any corrective action(s) identified in the notice of proposed removal or final notice of removal, as applicable.

§ 380.725 Documentation and record retention.

(a) *Applicability.* The documentation and retention of records required by this subpart apply to entities that meet the requirements of subpart F of this part and are eligible for listing on the Training Provider Registry (TPR).

(b) All training providers on the TPR must retain the following:

(1) The training provider's policy setting forth eligibility requirements for driver-trainee applicants related to controlled substances testing, medical certification, licensing, and driving records.

(2) Instructor qualification documentation indicating driving and/or training experience, as applicable, for each instructor and copies of commercial driver's licenses and applicable endorsements held by behind-the-wheel (BTW) instructors.

(3) The amount of time generally allocated to theory and BTW (range and public road) training, as applicable.

(4) The instructor-driver-trainee ratio during each portion of the curriculum; the number of vehicles, and a description of range and lesson plans for theory and BTW (range and public road) training, as applicable.

(5) Names of all driver-trainees who completed or withdrew from instruction in the required curriculum and who passed or failed the training provider's assessment of theory and, if applicable, BTW (range and public road) training.

(c) *Retention of records.* Training providers listed on the TPR must retain the records identified in paragraph (b) of this section for a minimum of three years from the date each required record is generated or received, unless a record, such as a CDL, has expired or been canceled, in which case the most recent, valid CDL should be retained. The provisions of this part do not affect a training provider's obligation to comply with any other local, State, or Federal requirements prescribing longer retention periods for any category of records described herein.

PART 383—COMMERCIAL DRIVER'S LICENSE STANDARDS; REQUIREMENTS AND PENALTIES

■ 5. The authority citation for part 383 is revised to read as follows:

Authority: 49 U.S.C. 521, 31136, 31301 *et seq.,* and 31502; secs. 214 and 215 of Pub. L. 106–159, 113 Stat. 1748, 1766, 1767; sec. 1012(b) of Pub. L. 107–56, 115 Stat. 272, 297, sec. 4140 of Pub. L. 109–59, 119 Stat. 1144, 1746; sec. 32934 of Pub. L. 112–141, 126 stat. 405, 830; and 49 CFR 1.87.

■ 6. Amend § 383.51 by adding paragraph (a)(8) to read as follows:

§ 383.51 Disqualification of drivers.

(a) * * *

(8) A holder of a CDL who is disqualified as a result of a conviction of offenses under § 383.51(b), (c), (d), or (e) must not be fully reinstated to drive a CMV until he or she has successfully completed the refresher training curriculum in § 380.625 of this chapter. Limited privileges to drive a CMV are to be reinstated solely in order to allow the driver to complete the refresher training curriculum.

* * * * *

■ 7. Amend § 383.71 by adding paragraphs (a)(3) and (4) and (b)(11); revising paragraphs (e)(3) and (4); and adding paragraph (e)(5) to read as follows:

§ 383.71 Driver application procedures

(a) * * *

(3) Beginning on [DATE 3 YEARS AFTER EFFECTIVE DATE OF THE FINAL RULE], a person must successfully complete the training prescribed in subpart F of part 380 of this chapter before taking the skills test for a Class A or B CDL or a passenger or school bus endorsement or the knowledge test for a hazardous materials endorsement. The training must be administered by a provider listed on the Training Provider Registry.

(4) Except for driver trainees seeking the H endorsement, driver-trainees who have successfully completed the theory portion of the training must complete the skills portion within 360 days.

(b) * * *

(11) Beginning on [DATE 3 YEARS AFTER EFFECTIVE DATE OF THE FINAL RULE], a person must successfully complete the training prescribed in subpart F of part 380 of this chapter before taking the skills test for an initial Class A or B CDL, a CDL with a passenger or school bus endorsement, or knowledge test for a hazardous materials endorsement. The training must be administered by a provider listed on the Training Provider Registry.

* * * * *

(e) * * *

(3) Comply with the requirements specified in paragraph (b)(8) of this section to obtain a hazardous materials endorsement;

(4) Surrender the previous CDL; and

(5) Beginning on [DATE 3 YEARS AFTER EFFECTIVE DATE OF THE FINAL RULE], a person must successfully complete the training prescribed in subpart F of part 380 of this chapter before taking the skills test for upgrading a CDL from one class to another; or upgrading a CDL with a passenger or school bus endorsement; or knowledge test for hazardous materials endorsement issued on a CDL. The training must be administered by a provider on the Training Provider Registry.

* * * * *

■ 8. Amend § 383.73 by revising paragraph (b)(3) introductory text and paragraph (b)(3)(ii), and by adding paragraphs (b)(10) and (e)(8) to read as follows:

§ 383.73 State procedures.

* * * * *

(b) * * *

(3) Initiate and complete a check of the applicant's driving record to ensure that the person is not subject to any disqualification under § 383.51, or any license disqualification under State law, does not have a driver's license from more than one State or jurisdiction, and has completed the required training prescribed in subpart F of part 380 of this subchapter. The record check must include, but is not limited to, the following:

* * * * *

(ii) A check with CDLIS to determine whether the driver applicant has already been issued a CDL, whether the applicant's license has been revoked or canceled, whether the applicant has been disqualified from operating a CMV, and, if the CDL was issued on or after [DATE 3 YEARS AFTER EFFECTIVE DATE OF THE FINAL RULE], whether an applicant for a Class A and B CDL or a CDL with a hazardous materials, passenger, or school bus endorsement has completed the training required by subpart F of part 380 of this subchapter from a provider listed on the Training Provider Registry;

* * * * *

(10) Beginning on [DATE 3 YEARS AFTER EFFECTIVE DATE OF THE FINAL RULE], the State must not conduct a skills test of an applicant for a Class A or B CDL, or a passenger or school bus endorsement until the State verifies that the applicant successfully completed the training prescribed in subpart F of part 380 of this subchapter from a training provider listed on the Training Provider Registry.

* * * * *

(e) * * *

(8) Beginning on [DATE 3 YEARS AFTER EFFECTIVE DATE OF THE FINAL RULE], require a person with a CDL upgrading from one class of CDL to another or upgrading a CDL with a hazardous materials, passenger, or school bus endorsement to successfully complete the training required in subpart F of part 380 of this subchapter from a provider listed on the Training Provider Registry.

* * * * *

■ 9. Amend § 383.95 by adding paragraph (h) to read as follows:

§ 383.95 Restrictions.

* * * * *

(h) *Refresher training.* If a CDL holder has been disqualified from operating a CMV under § 383.51(b) through (e), the State would reinstate the CDL solely for the limited purpose of completing the refresher training curriculum in § 380.625 of this chapter. The State may not restore full CMV driving privileges until the State receives notification that the driver successfully completed the refresher training curriculum.

■ 10. Amend § 383.153 by revising paragraph (a)(10) to read as follows:

§ 383.153 Information on the CLP and CDL documents and applications.

(a) * * *

(10) The restriction(s) placed on the driver from operating certain equipment or vehicles, if any, indicated as follows:

(i) L for No Air brake equipped CMV;

(ii) Z for No Full air brake equipped CMV;

(iii) E for No Manual transmission equipped CMV;

(iv) O for No Tractor-trailer CMV;

(v) M for No Class A passenger vehicle;

(vi) N for No Class A and B passenger vehicle;

(vii) K for Intrastate only;

(viii) V for Medical variance;

(ix) R for Refresher training only; and

(x) At the discretion of the State, additional codes for additional restrictions, as long as each such restriction code is fully explained on the front or back of the CDL document.

* * * * *

PART 384—STATE COMPLIANCE WITH COMMERCIAL DRIVER'S LICENSE PROGRAM

■ 11. The authority citation for part 384 is revised to read as follows:

Authority: 49 U.S.C. 31136, 31301, *et seq.,* and 31502; secs. 103 and 215 of Pub. L. 106–59, 113 Stat. 1753, 1767; sec. 32934 of Pub. L. 112–141, 126 stat. 405, 830 and 49 CFR 1.87.

■ 12. Add § 384.230 to read as follows:

§ 384.230 Entry-level driver certification.

(a) Beginning on [DATE 3 YEARS AFTER EFFECTIVE DATE OF THE FINAL RULE] a State must follow the procedures prescribed in § 383.73 of this subchapter for verifying that a person received training from a provider listed on the Training Provider Registry before issuing an initial Class A or B CDL; a CDL with a hazardous materials, passenger, or school bus endorsement; upgrade a CDL from one class to another; or upgrade a CDL with a hazardous materials, passenger, or school bus endorsement.

(b)(1) A State may issue a CDL to individuals who obtain an initial CLP before [DATE 3 YEARS AFTER EFFECTIVE DATE OF THE FINAL RULE] who have not complied with subpart F of part 380 of this subchapter so long as they obtain a CDL within 360 days after obtaining an initial CLP.

(2) A State may not issue a CDL to individuals who obtain a CLP on or after [DATE 3 YEARS AFTER EFFECTIVE DATE OF THE FINAL RULE] unless they comply with subpart F of part 380 of this subchapter.

■ 13. Add § 384.301(j) to read as follows:

§ 384.301 Substantial compliance—general requirements.

* * * * *

(j) A State must come into substantial compliance with the requirements of subpart B of this part and part 383 of this chapter in effect as of [EFFECTIVE DATE OF THE FINAL RULE], but not later than [DATE 3 YEARS AFTER EFFECTIVE DATE OF THE FINAL RULE].

Issued under the authority of delegation in 49 CFR 1.87.

Dated: February 19, 2016.

T.F. Scott Darling III,

Acting Administrator.

[FR Doc. 2016–03869 Filed 3–4–16; 8:45 am]

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Part IV

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Chapter 1
Federal Acquisition Regulation; Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR 2016–0051, Sequence No. 1]

Federal Acquisition Regulation; Federal Acquisition Circular 2005–87; Introduction

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of final rules.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rules agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) in this Federal Acquisition Circular (FAC) 2005–87. A companion document, the *Small Entity Compliance Guide* (SECG), follows this FAC. The FAC, including the SECG, is available via the Internet at *http://www.regulations.gov.*

DATES: For effective dates see the separate documents, which follow.

FOR FURTHER INFORMATION CONTACT: The analyst whose name appears in the table below in relation to the FAR case. Please cite FAC 2005–87 and the specific FAR case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755.

RULES LISTED IN FAC 2005–87

Item	Subject	FAR case	Analyst
I	Information on Corporate Contractor Performance and Integrity	2013–020	Davis
II	Technical Amendments.		

SUPPLEMENTARY INFORMATION: Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these rules, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2005–87 amends the FAR as follows:

Item I—Information on Corporate Contractor Performance and Integrity (FAR Case 2013–020)

This final rule amends the FAR to implement a section of the National Defense Authorization Act for Fiscal Year 2013 to include in the Federal Awardee Performance and Integrity Information System, to the extent practicable, identification of any immediate owner or subsidiary, and all predecessors of an offeror that held a Federal contract or grant within the last three years. The objective is to provide a more comprehensive understanding of the performance and integrity of the corporation before awarding a Federal contract.

This final rule will not have a significant economic impact on a substantial number of small entities.

Item II—Technical Amendments

Editorial changes are made at FAR 4.1703(a)(1), 22.1904(b)(1), 25.1102(d)(3), 36.607(b), 52.212–3(h), 52.212–3(p) and (q), and (p) and (q) of Alternate I, 52.212–5(c)(8), (e)(1)(xv), (e)(1)(ii)(N) of Alternate II, and 52.213–4(b)(1)(ix).

Dated: February 29, 2016.

William Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Federal Acquisition Circular (FAC) 2005–87 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2005–87 is effective March 7, 2016 except for item I which is effective April 6, 2016.

Dated: February 25, 2016.

LeAntha D. Sumpter,

Acting Director, Defense Procurement and Acquisition Policy.

Dated: February 26, 2016.

Jeffrey A. Koses,

Senior Procurement Executive/Deputy CAO, Office of Acquisition Policy, U.S. General Services Administration.

Dated: February 26, 2016.

William P. McNally,

Assistant Administrator, Office of Procurement, National Aeronautics and Space Administration.

[FR Doc. 2016–04772 Filed 3–4–16; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 4, 9, 22, and 52

[FAC 2005–87; FAR Case 2013–020; Item I; Docket 2013–0020, Sequence 1]

RIN 9000–AM74

Federal Acquisition Regulation; Information on Corporate Contractor Performance and Integrity

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement section 852 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013 to include in the Federal Awardee Performance and Integrity Information System (FAPIIS), to the extent practicable, identification of any immediate owner or subsidiary, and all predecessors of an offeror that held a Federal contract or grant within the last three years. The objective is to provide a more comprehensive understanding of the performance and integrity of the corporation before awarding a Federal contract.

DATES: *Effective:* April 6, 2016.

FOR FURTHER INFORMATION CONTACT: Ms. Cecelia Davis, Procurement Analyst, at 202–219–0202, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–87, FAR Case 2013–020.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 79 FR 71975 on December 4, 2014. The comment period closed on February 2, 2015. Two respondents submitted comments on the proposed rule.

The final rule implements section 852 of the NDAA for FY 2013 (Pub. L. 112–239) with regard to Federal contracts. Section 852 requires that the FAPIIS include, to the extent practicable, information on any parent, subsidiary, or successor entities to a corporation in a manner designed to give the acquisition officials using the database a comprehensive understanding of the performance and integrity of the corporation in carrying out Federal contracts and grants. This final rule addresses the collection of information with regard to offerors that are responding to a solicitation for a Federal contract. The data on the immediate owner and direct subsidiaries of an entity will be available through FAPIIS, based on the data obtained from offerors in response to the FAR provision 52.204–17, Ownership or Control of Offeror, which was published in the **Federal Register** at 79 FR 31187 on May 30, 2014, as a final rule under FAR Case 2012–024.

II. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the comments in the development of the final rule. A discussion of the comments and the changes made to the rule as a result of those comments are provided as follows:

A. Summary of Significant Changes

There were no changes made in the final rule in response to the public comments received.

B. Analysis of Public Comments

Comment: One respondent commented that it would be helpful if the relevant FAR provisions and FAR clause 52.204–20 clarified whether the three year ''lookback'' period starts on the effective date of when the predecessor merged or was acquired by the successor or the date the contracts of the predecessor were novated from the predecessor to the successor.

Response: The ''lookback'' period starts on the date the offeror signs the representation. If, within the three years prior to signing the representation, there was a merger or acquisition, it shall be reported. The date of novation is not relevant for purposes of this rule.

Comment: One respondent supported the statute because it requires that information be provided to the contracting officers to aid in making responsibility determinations, and supported the position that the ''further the distance between entities, the less relevant the information is likely to be for establishing responsibility of the offeror.''

Response: Noted.

Comment: One respondent commented that the proposed rule's requirement to report data on all predecessors of the offeror that received a Federal contract or grant within the last three years would apply an undue burden on prospective contractors and not achieve the Government's stated objective of providing a more comprehensive understanding of a potential contractor's performance and integrity. The respondent proposed that publicly traded companies subject to Securities and Exchange Commission requirements be exempt from this requirement because it instills a burden without benefit to the Government.

Response: The statute does not allow for this exemption.

Comment: One respondent commented that large multi-national organizations many times reorganize business units in order to effectively respond to changing needs of the marketplace. These reorganizations can include alternate legal structures. The assets of one legal entity may pass through three or four more before landing at the new entity. The respondent proposed that where the ultimate owner remains the same before and after a transaction, the contractor be exempted from providing information on predecessor entities. According to the respondent, this is consistent with the Government's exclusion of a ''new offices/divisions of the same company'' from the definition of ''successor''.

Response: This recommendation does not meet the requirements of the statute.

Comment: One respondent commented that contracting officers and their counsel perform a rigorous review and analysis to deal with the novation process and feels that there should be no requirement to identify prior owners within the FAPIIS because the required responsibility determination would have been conducted through novation.

Response: The statute requires collection of information on predecessor, regardless of any novation action by the Government.

Comment: The respondent commented that the reporting of the ultimate owners became effective on November 1, 2014, and believe that agencies should allow contractors and contracting officers time to implement and evaluate the results of this new requirement before adding more requirements that may not aid contracting officers in responsibility and integrity evaluations.

Response: The statute does not allow the Government to delay the implementation of this Act.

Comment: The respondent feels that commercially available off-the-shelf (COTS) items should be excluded from this requirement.

Response: The Administrator of the Office of Federal Procurement Policy has determined that this rule applies to COTS items.

C. Applicability

Based on determinations by the FAR signatories (DoD, GSA, and NASA) and the Administrator for Federal Procurement Policy, in accordance with 41 U.S.C. 1905, 1906, and 1907, this rule applies to all solicitations and resultant contracts, including contracts and subcontracts for acquisitions in amounts not greater than the simplified acquisition threshold, and contracts and subcontracts for the acquisition of commercial items, (including commercially available off-the-shelf items). Because the emphasis of section 852 of the NDAA for FY 2013 (Pub. L. 112–239) is to provide acquisition officials using FAPIIS with a comprehensive understanding of the performance and integrity of the corporation in carrying out Federal contracts, it is not in the best interest of the Federal Government to waive the applicability of section 852 to contracts and subcontracts in amounts not greater than the simplified acquisition threshold, or for the acquisition of commercial items (including COTS items).

III. Executive Order 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 not a significant regulatory action and, therefore, was not 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, GSA, and NASA do not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because the burden is minimal to provide the CAGE Code and the name of all predecessors that held a Federal contract or grant within the last three years. However, a Final Regulatory Flexibility Analysis has been performed and is summarized as follows:

This case implements section 852 of the NDAA for FY 2013 (Pub. L. 112–239). The objective of this rule is to provide acquisition officials using the Federal Awardee Performance and Integrity Information System (FAPIIS) a comprehensive understanding of the performance and integrity of the corporation in carrying out Federal contracts. The legal basis for the rule is section 852 of the NDAA for FY 2013 (Pub. L. 112–239).

No comments were received from the public relative to the initial regulatory flexibility analysis.

It is not expected that this rule will 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.,* because the burden is minimal to provide the CAGE Code and the name of all predecessors that held a Federal contract or grant within the last three years.

The data on immediate owner and direct subsidiaries of an entity will be available through FAPIIS, based on the data obtained from offerors in response to the FAR provision 52.204–17, Ownership or Control of Offeror, that requires this information for the CAGE code. The Federal Government received offers from approximately 413,800 unique vendors in FY 2011. Approximately 275,900 of these offers were from unique small businesses, which will be required to respond to the proposed provision.

The rule requires approximately one submission per year, with an estimated average of .1 preparation hours per response. The response time will be less for most respondents, who will only be required to check a box. Only those respondents that check ''is'' will have to provide a minimal amount of information (CAGE Code and legal name of all predecessors that held a Federal contract or grant within the last three years). A mid-level professional skill would be required in some instances to know whether the entity is a successor, as defined in the rule.

There are no exemptions from the rule for small entities, because the law does not provide for any such exemption. However, the final rule limits the review of predecessor entities to three years, and only requires information relating to the most recent predecessor, if any.

DoD, GSA and NASA did not identify any significant alternatives that would reduce impact on small business and still accomplish the objectives of the statute and the polices.

Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat. The Regulatory Secretariat has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

V. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) applies. The rule contains information collection requirements. The Office of Management and Budget (OMB) has cleared this information collection requirement under OMB Control Number 9000–0189, titled: Identification of Predecessors.

List of Subjects in 48 CFR Parts 1, 4, 9, 22, and 52

Government procurement.

Dated: February 29, 2016.

William Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 1, 4, 9, 22, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 1, 4, 9, 22, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

1.106 [Amended]

■ 2. Amend section 1.106, in the table following the introductory text, by adding in numerical sequence, FAR segment ''52.204–20'' and its corresponding OMB Control No. ''9000–0189''.

PART 4—ADMINISTRATIVE MATTERS

■ 3. Amend section 4.1202 by redesignating paragraphs (a)(6) through (30) as paragraphs (a)(7) through (31), respectively, and adding paragraph (a)(6) to read as follows.

4.1202 Solicitation provision and contract clause.

(a) * * *

(6) 52.204–20, Predecessor of Offeror.

* * * * *

■ 4. Amend section 4.1804 by adding paragraph (d) to read as follows:

4.1804 Solicitation provisions and contract clause.

* * * * *

(d) Insert the provision at 52.204–20, Predecessor of Offeror, in all solicitations that include the provision at 52.204–16, Commercial and Government Entity Code Reporting.

PART 9—CONTRACTOR QUALIFICATIONS

■ 5. Amend section 9.104–6 by revising paragraphs (a) and (b) to read as follows:

9.104–6 Federal Awardee Performance and Integrity Information System.

(a)(1) Before awarding a contract in excess of the simplified acquisition threshold, the contracting officer shall review the performance and integrity information available in the Federal Awardee Performance and Integrity Information System (FAPIIS), (available at *www.ppirs.gov,* then select FAPIIS), including FAPIIS information from the System for Award Management (SAM) Exclusions and the Past Performance Information Retrieval System (PPIRS).

(2) In accordance with 41 U.S.C. 2313(d)(3), FAPIIS also identifies—

(i) An affiliate that is an immediate owner or subsidiary of the offeror, if any (see 52.204–17, Ownership or Control of Offeror); and

(ii) All predecessors of the offeror that held a Federal contract or grant within the last three years (see 52.204–20, Predecessor of Offeror).

(b)(1) When making a responsibility determination, the contracting officer shall consider all the information available through FAPIIS with regard to the offeror and any immediate owner, predecessor, or subsidiary identified for that offeror in FAPIIS, as well as other past performance information on the offeror (see subpart 42.15).

(2) For evaluation of information available through FAPIIS relating to an affiliate of the offeror, see 9.104–3(c).

(3) For source selection evaluations of past performance, see 15.305(a)(2). Contracting officers shall use sound judgment in determining the weight and relevance of the information contained in FAPIIS and how it relates to the present acquisition.

(4) Since FAPIIS may contain information on any of the offeror's previous contracts and information covering a five-year period, some of that information may not be relevant to a determination of present responsibility, *e.g.,* a prior administrative action such as debarment or suspension that has expired or otherwise been resolved, or

information relating to contracts for completely different products or services.

(5) Because FAPIIS is a database that provides information about prime contractors, the contracting officer posts information required to be posted about a subcontractor, such as trafficking in persons violations, to the record of the prime contractor (see 42.1503(h)(1)(v)). The prime contractor has the opportunity to post in FAPIIS any mitigating factors. The contracting officer shall consider any mitigating factors posted in FAPIIS by the prime contractor, such as degree of compliance by the prime contractor with the terms of FAR clause 52.222–50.

* * * * *

■ 6. Amend section 9.105–1 by revising the introductory text of paragraph (c) to read as follows:

9.105–1 Obtaining information.

* * * * *

(c) In making the determination of responsibility, the contracting officer shall consider information available through FAPIIS (see 9.104–6) with regard to the offeror and any immediate owner, predecessor, or subsidiary identified for that offeror in FAPIIS, including information that is linked to FAPIIS such as from SAM, and PPIRS, as well as any other relevant past performance information on the offeror (see 9.104–1(c) and subpart 42.15). In addition, the contracting officer should use the following sources of information to support such determinations:

* * * * *

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

22.1006 [Amended]

■ 7. Amend section 22.1006 by removing from paragraph (a)(2)(i)(C) ''52.204–8(c)(2)(iii) or (iv)'' and adding ''52.204–8(c)(2)'' in its place; removing from paragraph (e)(2)(i) ''52.204–8(c)(2)(iii)'' and adding ''52.204–8(c)(2)'' in its place; and removing from paragraph (e)(4)(i) ''52.204–8(c)(2)(iv)'' and adding ''52.204–8(c)(2)'' in its place.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 8. Amend section 52.204–8 by—

■ a. Revising the date of provision;

■ b. Redesignating paragraphs (c)(2)(ii) through (vii) as paragraphs (c)(2)(iii) through (viii), respectively; and

■ c. Adding paragraph (c)(2)(ii).

The revision and addition read as follows:

52.204–8 Annual Representations and Certifications.

* * * * *

Annual Representations and Certifications (APR 2016)

* * * * *

(c) * * *

(2) * * *

_____ (ii) 52.204–20, Predecessor of Offeror.

* * * * *

■ 9. Add section 52.204–20 to read as follows:

52.204–20 Predecessor of Offeror.

As prescribed in 4.1804(d), insert the following provision:

Predecessor of Offeror (APR 2016)

(a) *Definitions.* As used in this provision—

Commercial and Government Entity (CAGE) code means—

(1) An identifier assigned to entities located in the United States and its outlying areas by the Defense Logistics Agency (DLA) Contractor and Government Entity (CAGE) Branch to identify a commercial or government entity, or

(2) An identifier assigned by a member of the North Atlantic Treaty Organization (NATO) or by NATO's Support Agency (NSPA) to entities located outside the United States and its outlying areas that DLA Contractor and Government Entity (CAGE) Branch records and maintains in the CAGE master file. This type of code is known as an NCAGE code.

Predecessor means an entity that is replaced by a successor and includes any predecessors of the predecessor.

Successor means an entity that has replaced a predecessor by acquiring the assets and carrying out the affairs of the predecessor under a new name (often through acquisition or merger). The term ''successor'' does not include new offices/divisions of the same company or a company that only changes its name. The extent of the responsibility of the successor for the liabilities of the predecessor may vary, depending on State law and specific circumstances.

(b) The Offeror represents that it □ is or □ is not a successor to a predecessor that held a Federal contract or grant within the last three years.

(c) If the Offeror has indicated ''is'' in paragraph (b) of this provision, enter the following information for all predecessors that held a Federal contract or grant within the last three years (if more than one predecessor, list in reverse chronological order):

Predecessor CAGE code: _____ (or mark ''Unknown'').

Predecessor legal name: _____.

(*Do not use a ''doing business as'' name*).

(End of provision)

■ 10. Amend section 52.212–3 by—

■ a. Revising the date of the provision;

■ b. Removing from the introductory text of the provision ''paragraphs (c) through (q)'' and adding ''paragraphs (c) through (r)'' in its place;

■ c. Adding to paragraph (a), in alphabetical order, the definitions ''Predecessor'' and ''Successor'';

■ d. Removing from the first undesignated paragraph following paragraph (b)(2) ''paragraphs (c) through (q)'' and adding ''paragraphs (c) through (r)'' in its place; and

■ e. Adding paragraph (r).

The revision and additions read as follows:

52.212–3 Offeror Representations and Certifications—Commercial Items.

* * * * *

Offeror Representations and Certifications—Commerical Items (APR 2016)

* * * * *

(a) * * *

Predecessor means an entity that is replaced by a successor and includes any predecessors of the predecessor.

* * * * *

Successor means an entity that has replaced a predecessor by acquiring the assets and carrying out the affairs of the predecessor under a new name (often through acquisition or merger). The term ''successor'' does not include new offices/divisions of the same company or a company that only changes its name. The extent of the responsibility of the successor for the liabilities of the predecessor may vary, depending on State law and specific circumstances.

* * * * *

(r) *Predecessor of Offeror.* (Applies in all solicitations that include the provision at 52.204–16, Commercial and Government Entity Code Reporting.)

(1) The Offeror represents that it □ is or □ is not a successor to a predecessor that held a Federal contract or grant within the last three years.

(2) If the Offeror has indicated ''is'' in paragraph (r)(1) of this provision, enter the following information for all predecessors that held a Federal contract or grant within the last three years (if more than one predecessor, list in reverse chronological order):

Predecessor CAGE code: _____ (or mark ''Unknown'').

Predecessor legal name: _____.

(*Do not use a ''doing business as'' name*).

* * * * *

[FR Doc. 2016–04773 Filed 3–4–16; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 4, 22, 25, 36, and 52

[FAC 2005–87; Item II; Docket No. 2016–0052; Sequence No. 1]

Federal Acquisition Regulation; Technical Amendment

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This document makes an amendment to the Federal Acquisition Regulation (FAR) in order to make an editorial change.

DATES: *Effective:* March 7, 2016.

FOR FURTHER INFORMATION CONTACT: Ms. Hada Flowers, Regulatory Secretariat Division (MVCB), 1800 F Street NW., 2nd Floor, Washington, DC 20405, 202–501–4755. Please cite FAC 2005–87, Technical Amendments.

SUPPLEMENTARY INFORMATION: In order to update certain elements in 48 CFR parts 4, 22, 25, 36, and 52 this document makes editorial changes to the FAR.

List of Subject in 48 CFR Parts 4, 22, 25, 36, and 52

Government procurement.

Dated: February 29, 2016.

William Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 4, 22, 25, 36, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 4, 22, 36, and 52 continues to read as follow:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 4—ADMINISTRATIVE MATTERS

4.1703 [Amended]

■ 2. Amend section 4.1703 by removing from paragraph (a)(1) ''type and estimated total value of the orders issued under the contract'' and adding ''type and estimated total value of each order under the contract'' in its place.

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

22.1904 [Amended]

■ 3. Amend section 22.1904 by removing from paragraph (b)(1) ''for subcontractors.'' and adding ''for subcontractors).'' in its place.

PART 25—FOREIGN ACQUISITION

■ 4. The authority citation for part 25 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

25.1102 [Amended]

■ 5. Amend section 25.1102 by removing from paragraph (d)(3) ''use the clause'' and adding ''use the provision'' in its place.

PART 36—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

36.607 [Amended]

■ 6. Amend section 36.607 by removing from paragraph (b) ''15.507(c).'' and adding ''and 15.507(c).'' in its place.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 7. Amend section 52.212–3 by—

■ a. Revising the date of the provision;

■ b. In paragraph (h), following paragraph (h)(3), removing paragraphs (i)(1) and (2);

■ c. Adding paragraphs (p) and (q); and

■ d. Removing from Alternate I, paragraphs (p) and (q).

The revision and additions read as follows:

52.212–3 Offeror Representations and Certifications—Commercial Items.

* * * * *

Offeror Representations and Certifications—Commercial Items (MAR 2016)

* * * * *

(p) *Ownership or Control of Offeror.* (Applies in all solicitations when there is a requirement to be registered in SAM or a requirement to have a DUNS Number in the solicitation).

(1) The Offeror represents that it □ has or □ does not have an immediate owner. If the Offeror has more than one immediate owner (such as a joint venture), then the Offeror shall respond to paragraph (2) and if applicable, paragraph (3) of this provision for each participant in the joint venture.

(2) If the Offeror indicates ''has'' in paragraph (p)(1) of this provision, enter the following information:

Immediate owner CAGE code: _____.

Immediate owner legal name: _____.

(Do not use a ''doing business as'' name)

Is the immediate owner owned or controlled by another entity: □ Yes or □ No.

(3) If the Offeror indicates ''yes'' in paragraph (p)(2) of this provision, indicating that the immediate owner is owned or controlled by another entity, then enter the following information:

Highest-level owner CAGE code: _____.

Highest-level owner legal name: _____.

(Do not use a ''doing business as'' name)

(q) *Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law.* (1) As required by sections 744 and 745 of Division E of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113–235), and similar provisions, if contained in subsequent appropriations acts, The Government will not enter into a contract with any corporation that—

(i) Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless an agency has considered suspension or debarment of the corporation and made a determination that suspension or debarment is not necessary to protect the interests of the Government; or

(ii) Was convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless an agency has considered suspension or debarment of the corporation and made a determination that this action is not necessary to protect the interests of the Government.

(2) The Offeror represents that—

(i) It is [ ] is not [ ] a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and

(ii) It is [ ] is not [ ] a corporation that was convicted of a felony criminal violation under a Federal law within the preceding 24 months.

* * * * *

■ 8. Amend section 52.212–5 by:

■ a. Revising the date of the clause and paragraphs (c)(8) and (e)(1)(xv); and

■ b. In Alternate II, revising paragraph (e)(1)(ii)(N).

The revisions read as follows:

52.212–5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items.

* * * * *

Contract Terms and Conditions Required To Implement Statutes or Executive Orders-Commercial Items (MAR 2016)

* * * * *

(c) * * *

(8) 52.222–55, Minimum Wages Under Executive Order 13658 (MAR 2016).

* * * * *

(e)(1) * * *

(xv) 52.222–55, Minimum Wages Under Executive Order 13658 (MAR 2016).

* * * * *

Alternate II

(e)(1) * * *

(ii) * * *

(N) 52.222–55, Minimum Wages Under Executive Order 13658 (MAR 2016).

* * * * *

■ 9. Amend section 52.213–4 by revising the date of the clause and paragraph (b)(1)(ix) to read as follows:

52.213–4 Terms and Conditions—Simplified Acquisitions (Other than Commercial Items).

* * * * *

Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items) (MAR 2016)

* * * * *

(b) * * *

(1) * * *

(ix) 52.222–55, Minimum Wages Under Executive Order 13658 (MAR 2016) (Applies when 52.222–6 or 52.222–41 are in the contract and performance in whole or in part is in the United States (the 50 States and the District of Columbia)).

* * * * *

[FR Doc. 2016–04774 Filed 3–4–16; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR 2016–0051, Sequence No. 1]

Federal Acquisition Regulation; Federal Acquisition Circular 2005–87; Small Entity Compliance Guide

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of DOD, GSA, and NASA. This *Small Entity Compliance Guide* has been prepared in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of the rules appearing in Federal Acquisition Circular (FAC) 2005–87, which amends the Federal Acquisition Regulation (FAR). An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared. Interested parties may obtain further information regarding these rules by referring to FAC 2005–87, which precedes this document. These documents are also available via the Internet at *http://www.regulations.gov.*

DATES: March 7, 2016.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact the analyst whose name appears in the table below. Please cite FAC 2005–87 and the FAR case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755.

RULES LISTED IN FAC 2005–87

Item	Subject	FAR case	Analyst
*I	Information on Corporate Contractor Performance and Integrity	2013–020	Davis.
II	Technical Amendments.		

SUPPLEMENTARY INFORMATION: Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these rules, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2005–87 amends the FAR as follows:

Item I—Information on Corporate Contractor Performance and Integrity (FAR Case 2013–020)

This final rule amends the FAR to implement a section of the National Defense Authorization Act for Fiscal Year 2013 to include in the Federal Awardee Performance and Integrity Information System, to the extent practicable, identification of any immediate owner or subsidiary, and all predecessors of an offeror that held a Federal contract or grant within the last three years. The objective is to provide a more comprehensive understanding of the performance and integrity of the corporation before awarding a Federal contract.

This final rule will not have a significant economic impact on a substantial number of small entities.

Item II—Technical Amendments

Editorial changes are made at FAR 4.1703(a)(1), 22.1904(b)(1), 25.1102(d)(3), 36.607(b), 52.212–3(h), 52.212–3(p) and (q), and (p) and (q) of Alternate I, 52.212–5(c)(8), (e)(1)(xv), (e)(1)(ii)(N) of Alternate II, and 52.213–4(b)(1)(ix).

Dated: February 29, 2016.

William Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2016–04775 Filed 3–4–16; 8:45 am]

BILLING CODE 6820–EP–P

FEDERAL REGISTER

Vol. 81 Monday,

No. 44 March 7, 2016

Part V

The President

Memorandum of March 1, 2016—Limiting the Use of Restrictive Housing by the Federal Government

Notice of March 3, 2016—Continuation of the National Emergency With Respect to Venezuela

Federal Register
Vol. 81, No. 44
Monday, March 7, 2016

Presidential Documents

Title 3—

The President

Memorandum of March 1, 2016

Limiting the Use of Restrictive Housing by the Federal Government

Memorandum for the Heads of Executive Departments and Agencies

A growing body of evidence suggests that the overuse of solitary confinement and other forms of restrictive housing in U.S. correctional systems undermines public safety and is contrary to our Nation's values.

In July 2015, as part of my Administration's ongoing efforts to pursue reforms that make the criminal justice system more fair and effective, I directed the Attorney General to undertake a comprehensive review of the overuse of solitary confinement across American prisons. Since that time, senior officials at the Department of Justice (DOJ) have met regularly to study the issue and develop strategies for reducing the use of this practice nationwide.

Those efforts gave rise to a final report transmitted to me on January 25, 2016 (DOJ Report and Recommendations Concerning the Use of Restrictive Housing) (the ''DOJ Report''), that sets forth specific policy recommendations for DOJ with respect to the Federal Bureau of Prisons and other DOJ entities as well as more general guiding principles for all correctional systems.

As the DOJ Report makes clear, although occasions exist when correctional officials have no choice but to segregate inmates from the general population, this action has the potential to cause serious, long-lasting harm. The DOJ Report accordingly emphasizes the responsibility of Government to ensure that this practice is limited, applied with constraints, and used only as a measure of last resort.

Given the urgency and importance of this issue, it is critical that DOJ accelerate efforts to reduce the number of Federal inmates and detainees held in restrictive housing and that Federal correctional and detention systems be models for facilities across the United States. Therefore, by the authority vested in me as President by the Constitution and the laws of the United States of America, and to address the overuse of solitary confinement in correctional and detention systems throughout the United States, I hereby direct as follows:

Section 1. *Implementation of the DOJ Report.* (a) DOJ shall promptly undertake to revise its regulations and policies, consistent with the direction of the Attorney General, to implement the policy recommendations in the DOJ Report concerning the use of restrictive housing. DOJ shall provide me with an update on the status of these efforts not later than 180 days after the date of this memorandum.

(b) Other executive departments and agencies (agencies) that impose restrictive housing shall review the DOJ Report to determine whether corresponding changes at their facilities should be made in light of the policy recommendations and guiding principles in the DOJ Report.

These other agencies shall report back to me not later than 180 days after the date of this memorandum on how they plan to address their use of restrictive housing.

Sec. 2. *General Provisions.* (a) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(b) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This memorandum 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.

Sec. 3. *Publication.* The Attorney General is authorized and directed to publish this memorandum in the *Federal Register.*

THE WHITE HOUSE,
Washington, March 1, 2016

[FR Doc. 2016–05232
Filed 3–4–16; 11:15 am]
Billing code 4410–19–P

Presidential Documents

Notice of March 3, 2016

Continuation of the National Emergency With Respect to Venezuela

On March 8, 2015, I issued Executive Order 13692, declaring a national emergency with respect to the situation in Venezuela, including the Government of Venezuela's erosion of human rights guarantees, persecution of political opponents, curtailment of press freedoms, use of violence and human rights violations and abuses in response to antigovernment protests, and arbitrary arrest and detention of antigovernment protestors, as well as the exacerbating presence of significant government corruption. The situation described in Executive Order 13692 has not improved. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 13692.

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

THE WHITE HOUSE,
March 3, 2016.

[FR Doc. 2016–05234
Filed 3–4–16; 11:15 am]
Billing code 3295–F6–P

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CFR PARTS AFFECTED DURING MARCH

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

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