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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0561; Directorate Identifier 2014–NE–12–AD; Amendment 39–18407; AD 2016–04–13]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding airworthiness directive (AD) 2015–04–03 that applies to certain Rolls-Royce plc (RR) RB211 Trent 768–60, 772–60, and 772B–60 turbofan engines. AD 2015–04–03 required inspection of the sealing sleeve on the high-pressure/intermediate-pressure (HP/IP) turbine support internal oil feed tube and removal of those sealing sleeves affected by AD 2015–04–03. This AD requires removal of either the affected sealing sleeve only or both the affected sealing sleeve and the oil feed tube. This AD was prompted by fractures of the HP/IP turbine support internal oil feed tube. We are issuing this AD to prevent failure of the HP/IP turbine support internal oil feed tube, uncontained engine failure, and damage to the airplane.

DATES: This AD is effective April 19, 2016.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of April 19, 2016.

ADDRESSES: For service information identified in this AD, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, DE24 8BJ, United Kingdom; phone: 011–44–1332–242424; fax: 011–44–1332–249936; email: *http://www.rolls-royce.com/contact/civil_team.jsp;* Internet: *https://customers.rolls-royce.com/public/rollsroycecare.* You may view this service information at the FAA, Engine & Propeller Directorate, 1200 District Avenue, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0561.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0561; 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 AD, the mandatory continuing airworthiness information, regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Philip Haberlen, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7770; fax: 781–238–7199; email: *philip.haberlen@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2015–04–03, Amendment 39–18105 (80 FR 9380, February 23, 2015), (''AD 2015–04–03''). AD 2015–04–03 applied to the specified products. The NPRM published in the **Federal Register** on November 10, 2015 (80 FR 69625). The NPRM proposed to require removal of either the affected sealing sleeve only or both the affected sealing sleeve and the oil feed tube.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comment received. The commenter supports the NPRM (80 FR 69625, November 10, 2015).

Conclusion

We reviewed the available data, including the comment received, and determined that air safety and the public interest require adopting this AD as proposed.

Related Service Information Under 1 CFR Part 51

RR has issued RR Alert Non-Modification Service Bulletin (NMSB) No. RB.211–72–AJ035, Revision 2, dated August 10, 2015 and RR Service Bulletin (SB) No. RB.211–72–H754, including the Supplement, Revision 1, dated July 29, 2015. The Alert NMSB No. RB.211–72–AJ035, Revision 2, dated August 10, 2015, provides guidance on identification and replacement of the sealing sleeve, part number (P/N) FW15003. The SB No. RB.211–72–H754, including the Supplement, Revision 1, dated July 29, 2015, provides information on the replacement of the sealing sleeve, P/N FW15003, and oil feed tube, P/N FW14193, with a sealing sleeve, P/N KH28323 and oil feed tube, P/N KH28324. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this AD.

Costs of Compliance

We estimate that this AD affects 58 engines installed on airplanes of U.S. registry. We also estimate that it will take about 1.2 hours per engine to comply with this AD. The average labor rate is $85 per hour. Required parts cost about $5,850 per engine. Based on these figures, we estimate the cost of this AD on U.S. operators to be $345,216.

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

This AD will not have federalism implications under Executive Order 13132. This AD will 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 that this AD:

(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),

(3) Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction, 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.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2015–04–03, Amendment 39–18105 (80 FR 9380, February 23, 2015) (''AD 2015–04–03''), and adding the following new AD:

2016–04–13 Rolls-Royce plc: Amendment 39–18407; Docket No. FAA–2014–0561; Directorate Identifier 2014–NE–12–AD.

(a) Effective Date

This AD is effective April 19, 2016.

(b) Affected ADs

This AD supersedes AD 2015–04–03.

(c) Applicability

This AD applies to Rolls-Royce plc (RR) RB211 Trent 768–60, 772–60, and 772B–60 turbofan engines, all serial numbers, except those engines:

(1) That have had Modification 72–H754 applied in production, or

(2) that have been modified in accordance with RR Service Bulletin (SB) No. RB.211–72–H754, including the Supplement, Revision 1, dated July 29, 2015 or initial issue dated October 1, 2014; or

(3) with sealing sleeve, part number (P/N) FW15003, with markings 102013, 112013, or 102013L.

(d) Unsafe Condition

This AD was prompted by fractures of the high-pressure/intermediate pressure (HP/IP) turbine support internal oil feed tube. We are issuing this AD to prevent failure of the HP/IP turbine support internal oil feed tube, uncontained engine failure, and damage to the airplane.

(e) Compliance

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

(1) If sealing sleeve, P/N FW15003, is installed without markings 102013, 112013, or 102013L, or if the markings cannot be sufficiently identified, then within 1,600 flight cycles or 24 months after the effective date of this AD, whichever occurs first:

(i) Remove the affected sealing sleeve, P/N FW15003, and replace it with a part eligible for installation. Use paragraph 3.A.(4)(b) of RR Alert Non-Modification Service Bulletin No. RB.211–72–AJ035, Revision 2, dated August 10, 2015, to perform the part replacement, or,

(ii) Remove the affected sealing sleeve, P/N FW15003, and the oil feed tube, P/N FW14193, and replace with parts eligible for installation. Use paragraph 3.B. or 3.C., as appropriate, of RR SB No. RB.211–72–H754, including the Supplement, Revision 1, dated July 29, 2015, to perform the parts replacement.

(2) Reserved.

(f) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, FAA, may approve AMOCs to this AD. Use the procedures found in 14 CFR 39.19 to make your request. You may email your request to: *ANE-AD-AMOC@faa.gov.*

(g) Related Information

(1) For more information about this AD, contact Philip Haberlen, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7770; fax: 781–238–7199; email: *philip.haberlen@faa.gov.*

(2) Refer to MCAI, European Aviation Safety Agency, AD 2015–0105R1, dated August 18, 2015, for more information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0561-0003.*

(h) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Rolls-Royce plc (RR) Alert Non-Modification Service Bulletin No. RB.211–72–AJ035, Revision 2, dated August 10, 2015.

(ii) RR Service Bulletin No. RB.211–72–H754, including the Supplement, Revision 1, dated July 29, 2015.

(3) For RR service information identified in this AD, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, DE24 8BJ, United Kingdom; phone: 011–44–1332–242424; fax: 011–44–1332–249936; email: *http://www.rolls-royce.com/contact/civil_team.jsp;* Internet: *https://customers.rolls-royce.com/public/rollsroycecare.*

(4) You may view this service information at FAA, Engine & Propeller Directorate, 1200 District Avenue, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

(5) You may view this service information at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Burlington, Massachusetts, on February 12, 2016.

Colleen M. D'Alessandro,

Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2016–05701 Filed 3–14–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–3713; Directorate Identifier 2015–NE–23–AD; Amendment 39–18425; AD 2016–05–07]

RIN 2120–AA64

Airworthiness Directives; Engine Alliance Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Engine Alliance (EA) GP7270 turbofan engines. This AD was prompted by reports of the installation of non-conforming honeycomb cartridges in the high-pressure compressor (HPC) adjacent to the HPC rotor stage 2 to 5 spool and stage 7 to 9 spool. This AD requires removal and replacement of the affected HPC rotor stage 2 to 5 and stage 7 to 9 spools and adjacent honeycomb cartridges. We are issuing this AD to prevent failure of the HPC rotor stage 2 to 5 and stage 7 to 9 spools, which could lead to uncontained engine failure and damage to the airplane.

DATES: This AD is effective April 19, 2016. The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of April 19, 2016.

ADDRESSES: For service information identified in this AD, contact Engine Alliance, 400 Main St., East Hartford, CT 06108, M/S 169–10, phone: 800–565–0140; email: *help24@pw.utc.com;* Web site: *www.engineallianceportal.com.* You may view this service information at the FAA, Engine & Propeller Directorate, 1200 District Avenue, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–3713.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–3713; 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 AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Kyle Gustafson, Aerospace Engineer, Engine & Propeller Directorate, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7183; fax: 781–238–7199; email: *kyle.gustafson@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain EA GP7270 turbofan engines. The NPRM published in the **Federal Register** on October 23, 2015 (80 FR 64373). The NPRM was prompted by reports of the installation of non-conforming honeycomb cartridges in the HPC adjacent to the HPC rotor stage 2 to 5 spool and stage 7 to 9 spool. The NPRM proposed to require removal and replacement of the affected HPC rotor stage 2 to 5 and stage 7 to 9 spools and adjacent honeycomb cartridges. We are issuing this AD to correct the unsafe condition on these products.

Related Service Information Under 1 CFR Part 51

We reviewed EA Service Bulletin (SB) EAGP7–72–327, dated July 21, 2015; and SB EAGP7–72–328, dated July 21, 2015. The SBs describe procedures for removal and replacement of the affected HPC rotor stage 2 to 5 spools and HPC rotor stage 7 to 9 spools and adjacent honeycomb cartridges. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM and the FAA's response to each comment.

Support for the NPRM (80 FR 64373, October 23, 2015)

A commenter supports the NPRM (80 FR 64373, October 23, 2015).

Request To Change Applicability

EA requested that we expand the applicability to include GP7272 and GP7277 turbofan engines models. EA stated that the AD applies to GP7272 and GP7277 turbofan engines ratings in addition to GP7270.

We disagree. No GP7272 or GP7277 turbofan engines have been delivered. New engines would be delivered in the corrected configuration and would not be impacted by this AD. We did not change this AD.

Request To Change the Unsafe Condition Statement

EA requested that we change the unsafe condition statement to ''We are issuing this AD to prevent a hazardous engine condition.'' because no engine failures have occurred in the field due to non-conforming honeycomb cartridges.

We disagree. The unsafe condition describes the condition we are trying to prevent and is the justification for this AD. It does not describe what has occurred in the past. We did not change this AD.

Request To Change the Summary and Relevant Service Information Paragraphs

EA requested that we include ''honeycomb cartridges'' in the Summary and Relevant Service Information paragraphs to indicate that the honeycomb cartridges require replacement.

We agree because the proposed change more completely describes the requirements of this AD. We changed the Summary and Relevant Service Information paragraphs of this AD.

Request To Change the Relevant Service Information, Applicability, and Compliance Paragraphs

EA requested that we revise the Relevant Service Information, Applicability, and Compliance paragraphs of this AD to allow future revisions of the applicable Service Bulletins (SBs).

We disagree. We are only authorized to mandate use of SBs that we have reviewed and which are published. Since future revisions of SBs are not yet published, we are not authorized to mandate their use. We did not change this AD.

Request To Change the Compliance Paragraph

EA requested that we revise Compliance paragraph (e)(1)(ii) of this AD to ''Remove and replace the honeycomb cartridges on the HPC stage 5 vanes with a part eligible for installation.''

EA also requested that we revise Compliance paragraph (e)(2)(ii) to ''Remove and replace the honeycomb cartridges on the HPC stage 6, stage 7, and stage 8 vanes with a part eligible for installation.''

We agree. We changed ''remove'' to ''remove from service'' and ''seal'' to ''cartridges'' and added ''. . . with a part eligible for installation'' in compliance paragraphs (e)(1)(ii) and (e)(2)(ii) of this AD.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD with the changes described previously:

• Are consistent with the intent that was proposed in the NPRM (80 FR 64373) for correcting the unsafe condition; and

• Do not add any additional burden upon the public than was already proposed in the NPRM (80 FR 64373).

We also determined that these changes will not increase the economic burden on any operator or increase the scope of this AD.

Costs of Compliance

We estimate that this AD affects zero engines installed on airplanes of U.S. registry. The average labor rate is $85 per hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be $0.

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

This AD will not have federalism implications under Executive Order 13132. This AD will 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 that this AD:

(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),

(3) Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction, 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.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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):

2016–05–07 Engine Alliance: Amendment 39–18425; Docket No. FAA–2015–3713; Directorate Identifier 2015–NE–23–AD.

(a) Effective Date

This AD is effective April 19, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Engine Alliance (EA) GP7270 turbofan engines with one or both of the following installed:

(1) A high-pressure compressor (HPC) rotor stage 2 to 5 spool, part number (P/N) 382–104–807–0, with a serial number (S/N) listed in EA Service Bulletin (SB) EAGP7–72–327, dated July 21, 2015; or

(2) An HPC rotor stage 7 to 9 spool, P/N 2031M90G04, 2031M90G05, or 2031M90G07, with an S/N listed in EA SB EAGP7–72–328, dated July 21, 2015.

(d) Unsafe Condition

This AD was prompted by reports of the installation of non-conforming honeycomb cartridges in the HPC adjacent to the HPC rotor stage 2 to 5 spool and stage 7 to 9 spool. We are issuing this AD to prevent failure of the HPC rotor stage 2 to 5 spools and stage 7 to 9 spools, which could lead to uncontained engine failure and damage to the airplane.

(e) Compliance

Comply with this AD within the compliance times specified, unless already done. Within 30 days after the effective date of this AD or before accumulating 2,100 engine cycles since the last disassembly of the compressor module of the engine, whichever occurs later:

(1) For engines with an HPC rotor stage 2 to 5 spool, P/N 382–104–807–0, installed with an S/N listed in EA SB EAGP7–72–327, dated July 21, 2015, do the following:

(i) Remove from service the HPC rotor stage 2 to 5 spool and replace with a part eligible for installation.

(ii) Remove from service the honeycomb cartridges on the HPC stage 5 vanes and replace with parts eligible for installation.

(2) For engines with an HPC rotor stage 7 to 9 spool, P/N 2031M90G04, 2031M90G05, or 2031M90G07 installed with an S/N listed in EA SB EAGP7–72–328, dated July 21, 2015, do the following:

(i) Remove from service the HPC rotor stage 7 to 9 spool and replace with a part eligible for installation.

(ii) Remove from service the honeycomb cartridges on the HPC stage 6, stage 7, and stage 8 vanes and replace with parts eligible for installation.

(f) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, may approve AMOCs for this AD. Use the procedures found in 14 CFR 39.19 to make your request. You may email your request to: *ANE-AD-AMOC@faa.gov.*

(g) Related Information

For more information about this AD, contact Kyle Gustafson, Aerospace Engineer, Engine & Propeller Directorate, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7183; fax: 781–238–7199; email: *kyle.gustafson@faa.gov.*

(h) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Engine Alliance Service Bulletin (SB) EAGP7–72–327, dated July 21, 2015.

(ii) Engine Alliance SB EAGP7–72–328, dated July 21, 2015.

(3) For Engine Alliance service information identified in this AD, contact Engine Alliance, 400 Main St., East Hartford, CT 06108, M/S 169–10, phone: 800–565–0140; email: *help24@pw.utc.com;* Web site: *www.engineallianceportal.com.*

(4) You may view this service information at FAA, Engine & Propeller Directorate, 1200 District Avenue, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

(5) You may view this service information at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Burlington, Massachusetts, on February 26, 2016.

Colleen M. D'Alessandro,

Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2016–05702 Filed 3–14–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–7777; Directorate Identifier 2015–CE–036–AD; Amendment 39–18432; AD 2016–06–01]

RIN 2120–AA64

Airworthiness Directives; B–N Group Ltd. Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are superseding an airworthiness directive (AD) 2007–06–06 for B–N Group Ltd. Models BN–2, BN–2A, BN–2A–2, BN–2A–3, BN–2A–6, BN–2A–8, BN–2A–9, BN–2A–20, BN–2A–21, BN–2A–26, BN–2A–27, BN–2B–20, BN–2B–21, BN–2B–26, BN–2B–27, BN2A MK. III, BN2A MK. III–2, BN2A MK. III–3 BN2A, BN2B, and BN2A MKIII (all models on TCDS A17EU and A29EU) airplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as cracks in the inner shell of certain pitot/static pressure heads. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective April 19, 2016.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of April 19, 2016.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–7777; or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

For service information identified in this AD, contact Britten-Norman Aircraft Limited, Commodore House, Mountbatten Business Centre, Millbrook Road East, Southampton SO15 1HY, United Kingdom; telephone: +44 20 3371 4000; fax: +44 20 3371 4001; email: *info@bnaircraft.com;* Internet: *http://www.britten-norman.com/customer-support/.* You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the Internet at *http://www.regulations.gov* by searching for Docket No. FAA–2015–7777.

FOR FURTHER INFORMATION CONTACT: Raymond Johnston, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4159; fax: (816) 329–3047; email: *raymond.johnston@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to B–N Group Ltd. Models BN–2, BN–2A, BN–2A–2, BN–2A–3, BN–2A–6, BN–2A–8, BN–2A–9, BN–2A–20, BN–2A–21, BN–2A–26, BN–2A–27, BN–2B–20, BN–2B–21, BN–2B–26, BN–2B–27, BN2A MK. III, BN2A MK. III–2, BN2A MK. III–3 BN2A, BN2B, and BN2A MKIII (all models on TCDS A17EU and A29EU) airplanes. That NPRM was published in the **Federal Register** on December 24, 2015 (80 FR 80291), and proposed to supersede AD 2007–06–06, Amendment 39–14987 (72 FR 12557; March 16, 2007).

The NPRM proposed to correct an unsafe condition for the specified products and was based on mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country. The MCAI states that:

> In 2005, occurrences were reported of finding cracks in the inner shell of certain pitot/static pressure heads, Part Number (P/N) DU130–24.
>
> This condition, if not detected and corrected, could lead to incorrect readings on the pressure instrumentation, *e.g.* altimeters, vertical speed indicators (rate-of-climb) and airspeed indicators, possibly resulting in reduced control of the aeroplane.
>
> To address this potential unsafe condition, B–N Group issued Service Bulletin (SB) 310 to provide inspection and test instructions. Consequently, CAA UK issued AD G–2005–0034 (EASA approval 2005–6447) to require repetitive inspections and leak tests and, depending on findings, accomplishment of applicable corrective action(s).
>
> Subsequently, B–N Group published SB 310 issue 2, prompting EASA to issue AD 2006–0143 making reference to SB 310 at issue 2, while the publication of BNA SB 310 issue 3 prompted EASA AD 2006–0143R1, introducing BNA modification (mod) NB–M–1728 (new pitot/static pressure head not affected by the AD requirements) as optional terminating action for the repetitive inspections and leak tests.
>
> Since that AD was issued, operators have reported a number of premature failures of the affected P/N DU130–24 pitot-static probes.
>
> Prompted by these reports, BNA issued SB 310 issue 4 to reduce the interval for the inspections and leak tests.
>
> For the reason described above, this AD retains the requirements of EASA AD 2006–0143R1, which is superseded, but requires those actions at reduced intervals.

The MCAI can be found in the AD docket on the Internet at: *http://www.regulations.gov/#!documentDetail;D=FAA-2015-7777-0002.*

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (80 FR 80291, December 24, 2015) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (80 FR 80291, December 24, 2015).

Related Service Information Under 1 CFR Part 51

We reviewed Britten-Norman Service Bulletin Number SB 310, Issue 4, dated September 25, 2015. The service information describes procedures for inspections, and if necessary, replacement of the pitot/static pressure head. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this final rule.

Costs of Compliance

We estimate that this AD will affect 93 products of U.S. registry. We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of this AD on U.S. operators to be $7,905, or $85 per product.

In addition, we estimate that any necessary follow-on actions would take about 2 work-hours and require parts costing $10,000, for a cost of $10,170 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will 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 AD:

(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.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–7777; 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 the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Amendment 39–14987 (72 FR 12557; March 16, 2007) and adding the following new AD:

2016–06–01 B–N Group Ltd.: Amendment 39–18432; Docket No. FAA–2015–7777; Directorate Identifier 2015–CE–036–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective April 19, 2016.

(b) Affected ADs

This AD supersedes AD 2007–06–06, Amendment 39–14987 (72 FR 12557; March 16, 2007).

(c) Applicability

This AD applies to B–N Group Ltd. Models BN–2, BN–2A, BN–2A–2, BN–2A–3, BN–2A–6, BN–2A–8, BN–2A–9, BN–2A–20, BN–2A–21, BN–2A–26, BN–2A–27, BN–2B–20, BN–2B–21, BN–2B–26, BN–2B–27, BN2A MK. III, BN2A MK. III–2, BN2A MK. III–3 BN2A, BN2B, and BN2A MKIII, BN2A, BN2B, and BN2A MKIII (all models on TCDS A17EU and A29EU) airplanes, all serial numbers, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 34: Navigation.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as cracks in the inner shell of certain pitot/static pressure heads. We are issuing this AD to correct cracks of the inner shell of certain pitot/static pressure heads for cracks; which could lead to incorrect readings on the pressure instrumentation, *e.g.* altimeters, vertical speed indicators (rate-of-climb) and airspeed indicators and possibly result in reduced control of the airplane.

(f) Actions and Compliance

Unless already done, do the following actions in paragraphs (f)(1) through (f)(4) of this AD:

(1) *For airplanes equipped with pitot/static pressure head part number (P/N) DU130–24:* Within 50 hours time-in-service (TIS) after April 19, 2016 (the effective date of this AD) and repetitively thereafter at intervals not to exceed 50 hours TIS, inspect the pitot/static pressure head for cracks and/or separation and perform a leak test following the procedures in the action section of Britten-Norman Service Bulletin SB 310, Issue 4, dated September 25, 2015.

(2) *For airplanes equipped with pitot/static pressure head part number (P/N) DU130–24:* If, during an inspection or test required in paragraph (f)(1) of this AD discrepancies are found, before further flight, replace the pitot/static pressure head with an airworthy part.

(3) *For airplanes equipped with pitot/static pressure head part number (P/N) DU130–24:* Corrections performed on airplanes as required in paragraph (f)(2) of this AD do not constitute terminating action for the repetitive actions required in paragraph (f)(1) of this AD.

(4) *For airplanes not equipped with a pitot/static pressure head P/N DU130–24 on the effective date of this AD:* After April 19, 2016 (the effective date of this AD), do not install a pitot/static pressure head P/N DU130–24.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Raymond Johnston, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4159; fax: (816) 329–3047; email: *raymond.johnston@faa.gov*. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(h) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No.: 2015–0199, dated October 7, 2015, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–7777. For service information related to this AD, contact Britten-Norman Aircraft Limited, Commodore House, Mountbatten Business Centre, Millbrook Road East, Southampton SO15 1HY, United Kingdom; telephone: +44 20 3371 4000; fax: +44 20 3371 4001; email: *info@bnaircraft.com;* Internet: *http://www.britten-norman.com/customer-support/*. You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

(i) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Britten-Norman Service Bulletin SB 310, Issue 4, dated September 25, 2015.

(ii) Reserved.

(3) For Britten-Norman Aircraft Limited service information identified in this AD, contact Britten-Norman Aircraft Limited, Commodore House, Mountbatten Business Centre, Millbrook Road East, Southampton SO15 1HY, United Kingdom; telephone: +44 20 3371 4000; fax: +44 20 3371 4001; email: *info@bnaircraft.com;* Internet: *http://www.britten-norman.com/customer-support/*.

(4) You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. In addition, you can access this service information on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–7777.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html*.

Issued in Kansas City, Missouri, on March 7, 2016.

Pat Mullen,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–05509 Filed 3–14–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Chapter I

[Docket No. FAA–2015–2022]

Petition of the Aircraft Owner and Pilots Association (AOPA) To Amend FAA Policy Concerning Flying Club Operations at Federally Obligated Airports

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final policy.

SUMMARY: The policy statement clarifies the FAA's policy interpretation regarding the operation of flying clubs at federally-obligated airports. Specifically, this policy statement amends FAA Order 5190.6B, Airport Compliance Requirements, Section 10.6 Flying Clubs to allow the clubs to compensate instructors and mechanics who are club members for services rendered to the Club. This policy statement also amends the FAA's definition of flying clubs.

DATES: This action becomes effective April 4, 2016.

FOR FURTHER INFORMATION CONTACT: Miguel Vasconcelos, Airport Compliance Division, ACO–100, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267–3085; facsimile: (202) 267–4620.

SUPPLEMENTARY INFORMATION:

Introduction and Background

On April 3, 2015, the Aircraft Owners and Pilots Association (AOPA) Senior Vice President for Government Affairs & Advocacy wrote to the FAA's Director of the Office of Airport Compliance and Management Analysis proposing revisions to FAA's current policy regarding compensation for flight instructors and persons maintaining aircraft within the context of flying club operations. AOPA stated in its letter that it sought ''to help current flying clubs and airport sponsors comply with the FAA guidance outlined in 5190.6B, and to provide future flying clubs the opportunity to strengthen and unify general aviation pilots.'' AOPA said that its goal is ''to provide guidance that is attainable and ensures educated compliance from all airport users,'' and asked for ''updated guidance regarding compensation for flight instructors and maintainers'' because ''flight instructors and aviation mechanics are valuable assets to the aviation industry, and should be granted the privilege of fair compensation for their efforts on a local level.''

AOPA proposes clubs be permitted to compensate member flight instructors and member mechanics for services rendered to the club or club members. Such compensation, AOPA suggests, should be monetary or in the form of credit against payment of dues or flight time.

The FAA requested comments on whether AOPA's recommendations are consistent with the FAA's general policies regarding commercial aeronautical services and on-airport flying clubs, and if so, whether the stated agency policy on flying clubs should be revised to amend its definition of flying clubs. In particular, the FAA sought comments from commercial service providers that engage in flight training and aircraft rental, from associations representing such service providers, and other interested parties. Public comments were received and considered, and changes to the existing policy were adopted.

I. Current Policy

FAA Order 5190.6B, *FAA Airport Compliance Manual* (Order), paragraph 10(6)(a), published on September 30, 2009, defines a flying club as: ''a nonprofit or not-for-profit entity (*e.g.,* corporation, association, or partnership) organized for the express purpose of providing its members with aircraft for their personal use and enjoyment only.'' The Order states that,

> the ownership of the club aircraft must be vested in the name of the flying club or owned by all its members. The property rights of the members of the club shall be equal; no part of the net earnings of the club will inure to the benefit of any individual in any form, including salaries, bonuses, etc. The flying club may not derive greater revenue from the use of its aircraft than the amount needed for the operation, maintenance, and replacement of its aircraft. FAA Order 5190.6B at para. 10(6)(b).

The Order also notes that ''flying clubs may not offer or conduct . . . aircraft rental operations. They may conduct aircraft flight instruction for regular members only, and only members of the flying club may operate the aircraft.'' FAA Order 5190.6B at para. 10.6(c)(1). The Order also states that ''no flying club shall permit its aircraft to be used for flight instruction for any person, including members of the club owning the aircraft, when such person pays or becomes obligated to pay for such instruction. FAA Order 5190.6B at para. 10.6(c)(3). An exception applies when the instruction is given by a lessee based on the airport who provides flight training and the person receiving the training is a member of the flying club. *Id.* Flight instructors who are also club members may not receive payment for instruction except that they may be compensated by credit against payment of dues or flight time'' and that ''any qualified mechanic who is a registered member and part owner of the aircraft owned and operated by a flying club may perform maintenance work on aircraft owned by the club. The flying club may not become obligated to pay for such maintenance work except that such mechanics may be compensated by credit against payment of dues or flight time.'' Flying clubs are defined in such a way as to differentiate from for-profit aeronautical businesses offering aeronautical services to general public, *e.g.,* FBOs, flight schools and aircraft rental providers.

The owner of any federally-obligated airport (airport sponsor) is required by the sponsor grant assurances to operate that airport for the use and benefit of the public and to make that airport available to all types, kinds, and classes of aeronautical activity on fair and reasonable terms, without unjust discrimination.

II. AOPA Proposal

AOPA states that its recommendations are designed to promote flying clubs by allowing flight instructors and mechanics who are club members to receive monetary compensation for services conducted for other club members or club aircraft:

AOPA Policy Proposal Item 1

''No flying club shall permit its aircraft to be used for flight instruction for any person, including members of the club owning the aircraft, when such person pays or becomes obligated to pay for such instruction except in the following circumstances; (a) The flight instruction is provided to a club member by a commercial operator authorized by the airport sponsor to provide flight instruction on field. (b) The flight instruction is provided to a club member by a flight instructor who is also a club member that is in good standings according to the club bylaws. In either case, the flight instructor may receive monetary compensation; however the flying club is prohibited from holding itself out to the public as a fixed based operator, a specialized aviation service operation, or a flight school. In the case of (b) above, the Airport Sponsor has the right to limit flight instruction for monetary compensation but must permit the club to compensate club instructors with credit against payment of dues or flight time.''

AOPA Policy Proposal Item 2

''Any qualified mechanic who is a member of the flying club may perform maintenance work on aircraft owned or exclusively used by the flying club. The flying club may not become obligated to pay for such maintenance work except that such mechanics may be compensated not to exceed a reasonable rate for the work performed at the discretion of club members. The club however may not hold out to the public as operating as a fixed base operator, a specialized aviation service operation, or maintenance facility. The Airport Sponsor has the right to limit maintenance work for monetary compensation but must permit the club to compensate club mechanics with credit against payment of dues or flight time.''

III. Comments Received

The FAA received comments from 44 airport users including flight instructors, pilots and flying club members. Thirty-seven of the airport users were flying club members who submitted a letter identifying themselves as ''Flying Club Participants at Air Venture 2015''. The remaining seven airport users submitted individual comments. Two industry groups submitted comments: Flight School Association of North America (FSANA) and National Air Transportation Association of North America (NATA). FSANA is a membership-based association representing flight schools and firms involved in flight training. NATA is an organization representing the interest of aviation businesses such as aircraft fueling, maintenance, parts sales, storage, rental, airline servicing, flight training, Part 135 on-demand air charter, and fractional aircraft program management.

Forty-three airport users offered support of both AOPA Policy Proposals: An individual commenter believes that the policy change would provide an incentive for pilots who belong to flying clubs to remain current and continue their education in a convenient, cost-effective, and familiar environment. Another commenter indicated that small airports rely on flying clubs because there is not enough business activity to support a flight school. This commenter is an inactive pilot because there is no aircraft rental or flight training available at the airport. However, the club at a local airport has several certificated flight instructors (CFI). Many CFIs have full time jobs and are not interested in donating their evenings and weekends without compensation. The president of a nonprofit flying club at Skyhaven Airport in Rochester, New Hampshire, indicates that the airport does not have a flight school. None of the club members can receive proficiency checkouts or additional training in club aircraft without violating the airport's policy. There are several CFIs in the community that would join the club if they could be compensated.

Supporters of the AOPA proposal believe the proposed policy change would (1) provide enhanced opportunities for students to fulfill their educational needs in surroundings they find appealing and accessible; (2) provide incentive for pilots who are members of flying clubs to remain current; and (3) create additional opportunities and incentives for certificated flight instructors to actively participate in flying clubs.

A commenter is opposed to a change in policy. He believes it will weaken ''for profit'' flight schools which have suffered financially for the past eight years.

FSANA believes that flying clubs can be a positive asset to the community. FSANA recognizes that flying clubs that are not for profit have a business advantage over for profit flight schools. They also believe a flying club should not be classified as a commercial operator. FSANA supports compensation for certificated flight instructors and mechanics as long as flying clubs serve the needs of their members and not promote their services to the general public and do not compete with commercial operators. FSANA encouraged the FAA to create awareness and enforce transparency for the flying club community and airport sponsors to ensure that flying clubs do not compete with commercial operators and promote themselves to the general public.

NATA recognizes AOPA's initiative is intended to increase public interest in flying by strengthening flying clubs. Of concern to NATA are those entities that classify themselves as flying clubs but are commercial aviation businesses thus avoiding compliance with an airport sponsor's minimum standards. NATA asserts that flying clubs that offer their services to the general public should not be able to enjoy the protection of a non-profit flying club to avoid complying with an airport's minimum standards. NATA does not object to either of AOPA's proposals but recommends that CFIs and mechanics receive either (1) monetary compensation or (2) discounted/waived regular club member dues or flying time, but not both. NATA believes that without such a restriction, outside instructors or mechanics could receive waived dues and monetary compensation for performing work without ever having invested in the club as would a bona-fide member. NATA suggests that the policy change with these limitations will be beneficial and will create a more level playing field.

FSANA and NATA suggest that any clarification of the policy should emphasize that (1) flying clubs should at no time hold themselves out as fixed based operators, flight schools, or as businesses at which people can learn to fly; and (2) CFIs and mechanics should be permitted to receive monetary compensation as long as flying clubs of which they are members meet adequate criteria, which may include the airport sponsor's authorization and/or sponsor-imposed conditions. FSANA and NATA also recommended that flying clubs must not indicate in any form of marketing and/or communications that they are a flight school, and flying clubs must not indicate in any form of marketing and/or communications that they are a business where people can learn to fly.

IV. Final Policy Changes

FAA's primary concern is that flying clubs operating at federally-obligated

airports must conform to the FAA definition found in FAA Order 5190.6B, paragraph 10.6. As stated, the Order defines ''a flying club as a nonprofit or not-for-profit entity (*e.g.,* corporation, association, or partnership) organized for the express purpose of providing its members with aircraft for their personal use and enjoyment only.'' In addition, the ownership of the club aircraft must be vested in the name of the flying club or owned by all its members, the property rights of the members of the club shall be equal and no part of the net earnings of the club will inure to the benefit of any individual in any form, including salaries, bonuses, etc. These flying clubs can be distinguished from commercial service providers that use the term ''flying club'' to describe their operation in order to avoid having to comply with the airport's minimum standards for commercial service providers Those ''flying clubs'' do not conform to the FAA definition and put other commercial aeronautical service providers at an economic disadvantage. Generally, they hold themselves out to the public as alternatives to traditional flight schools and aircraft rental providers, and charge only nominal annual ''club fees.''

FAA policy will emphasize three points: (1) Flying clubs should at no time hold themselves out as fixed based operators, flight schools, or as businesses offering services to the general public; and (2) CFIs and mechanics should be permitted to receive either monetary compensation or discounted/waived regular club member dues but not both; (3) flying clubs must not indicate, in any form of marketing and/or communications, that they are a flight school and flying clubs must not indicate in any form of marketing and/or communications that they are a business where people can learn to fly. FAA agrees with NATA that flight instructors and mechanics should be bona-fide club members paying dues as a condition to receiving compensation for services or a bona-fide member receiving a discount or waiver of dues with no compensation. To offer both compensation and discounted/waived dues may result in abuse and the use of outside instructors and mechanics who have no investment of time or commitment to the club. Additionally, FAA agrees with NATA and FSANA that flying clubs must distinguish themselves from other aeronautical service providers.

FAA expects that sponsors of federally-obligated airports will take appropriate action to ensure that commercial operators and flying clubs are properly classified, and the sponsor's actions are consistent with its grant assurances, specifically Grant Assurance 22, *Economic Nondiscrimination.*

FAA's policy regarding flying clubs is amended by revising FAA Order 5190.6B paragraphs 10.6(c)(3) and (4) and by adding paragraphs 10.6 (c)(8) and (9):

b. General The ownership of the club aircraft must be vested in the name of the flying club or owned by all its members. The property rights of the members of the club shall be equal; no part of the net earnings of the club will inure to the benefit of any individual in any form, including salaries, bonuses, etc. The flying club may not derive greater revenue from the use of its aircraft than the amount needed for the operation, maintenance and replacement of its aircraft.

(c)(3). A flying club may permit its aircraft to be used for flight instruction in a club-owned aircraft as long as both the instructor providing instruction and person receiving instruction are members of the club owning the aircraft, or when the instruction is given by a lessee based on the airport who provides flight training and the person receiving the training is a member of the flying club. In either circumstance, a flight instructor may receive monetary compensation for instruction or may be compensated by credit against payment of dues or flight time; however that individual may not receive both compensation and waived or discounted dues or flight time concurrently. The airport sponsor may set limits on the amount of instruction that may be performed for compensation.

(c)(4). A qualified mechanic who is a registered member and part owner of the aircraft owned and operated by a flying club may perform maintenance work on aircraft owned by the club. The mechanic may receive monetary compensation for such maintenance work or may be compensated by credit against payment of dues or flight time; however that individual may not receive both compensation and waived or discounted dues or flight time concurrently. The airport sponsor may set limits on the amount of maintenance that may be performed for compensation.

(c)(8). Flying Clubs may not hold themselves out to the public as fixed based operators, a specialized aviation service operation, maintenance facility or a flight school and are prohibited from advertisements as such or be required to comply with the appropriate airport minimum standards.

(c)(9). Flying Clubs may not indicate in any form of marketing and/or communications that they are a flight school, and Flying Clubs must not indicate in any form of marketing and/or communications that they are a business where people can learn to fly.

Issued in Washington, DC, on March 9, 2016.

Byron Huffman,

Acting Director, Office of Airport Compliance and Management Analysis.

[FR Doc. 2016–05833 Filed 3–14–16; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Part 12

[CBP Dec. 16–05]

RIN 1515–AE08

Extension of Import Restrictions Imposed on Certain Archaeological and Ethnological Materials From the Republic of Colombia

AGENCY: Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the U.S. Customs and Border Protection (CBP) regulations to reflect the extension of import restrictions on certain archaeological and ethnological materials from the Republic of Colombia (''Colombia''). The restrictions, which were originally imposed by CBP Decision (Dec.) 06–09 and extended by CBP Dec. 11–06, are due to expire on March 15, 2016. The Assistant Secretary for Educational and Cultural Affairs, United States Department of State, has determined that factors continue to warrant the imposition of import restrictions and no cause for suspension exists. Accordingly, these import restrictions will remain in effect for an additional five years, and the CBP regulations are being amended to reflect this extension until March 15, 2021. These restrictions are being extended pursuant to determinations of the United States Department of State made under the terms of the Convention on Cultural Property Implementation Act that implemented the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. CBP Dec. 06–09 contains the Designated List

of archaeological and ethnological materials of Colombia to which the restrictions apply.

DATES: *Effective Date:* March 15, 2016.

FOR FURTHER INFORMATION CONTACT: For legal aspects, Lisa L. Burley, Chief, Cargo Security, Carriers and Restricted Merchandise Branch, Regulations and Rulings, Office of International Trade, (202) 325–0215. For operational aspects, William R. Scopa, Branch Chief, Partner Government Agency Branch, Trade Policy and Programs, Office of International Trade, (202) 863–6554, *William.R.Scopa@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

Pursuant to the provisions of the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention, implemented by the Convention on Cultural Property Implementation Act (Pub. L. 97–446, 19 U.S.C. 2601 *et seq.*), the United States entered into a bilateral agreement with the Republic of Colombia (''Colombia'') on March 15, 2006, concerning the imposition of import restrictions on certain archeological and ethnological materials from Colombia (the ''Agreement''). On March 17, 2006, CBP published CBP Dec. 06–09 in the **Federal Register** (71 FR 13757), which amended 19 CFR 12.104g(a) to reflect the imposition of these restrictions and included a list designating the types of articles covered by the restrictions.

Import restrictions listed in 19 CFR 12.104g(a) are effective for no more than five years beginning on the date on which the agreement enters into force with respect to the United States. This period may be extended for additional periods of not more than five years if it is determined that the factors which justified the initial agreement still pertain and no cause for suspension of the agreement exists.

Since the initial document was published on March 17, 2006, the import restrictions were extended on March 15, 2011. CBP published CBP Dec. 11–06 in the **Federal Register** (76 FR 13879) which amended 19 CFR 12.104g(a) to reflect the extension for an additional period of five years.

On July 23, 2015, the Department of State received a request by the Government of Colombia to extend the Agreement. Subsequently, the Department of State proposed to extend the Agreement. After considering the views and recommendations of the Cultural Property Advisory Committee, the Assistant Secretary for Educational and Cultural Affairs, United States Department of State, determined that the cultural heritage of Colombia continues to be in jeopardy from pillage of archaeological and ethnological materials and made the necessary determinations to extend the import restrictions for an additional five years. Diplomatic notes have been exchanged, reflecting the extension of those restrictions for an additional five-year period. Accordingly, CBP is amending 19 CFR 12.104g(a) to reflect this extension of the import restrictions.

The Designated List of archaeological and ethnological materials from Colombia covered by these import restrictions is set forth in CBP Dec. 06–09. The Designated List may also be found at the following Internet Web site address: *http://eca.state.gov/cultural-heritage-center/cultural-property-protection/bilateral-agreements/colombia.*

The restrictions on the importation of these archaeological and ethnological materials from Colombia are to continue in effect for an additional five years. Importation of such materials continues to be restricted unless the conditions set forth in 19 U.S.C. 2606 and 19 CFR 12.104c are met.

Inapplicability of Notice and Delayed Effective Date

This amendment involves a foreign affairs function of the United States and is, therefore, being made without notice or public procedure (5 U.S.C. 553(a)(1)). In addition, CBP has determined that such notice or public procedure would be impracticable and contrary to the public interest because the action being taken is essential to avoid interruption of the application of the existing import restrictions (5 U.S.C. 553(b)(B)). For the same reasons, a delayed effective date is not required under 5 U.S.C. 553(d)(3).

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Executive Order 12866

It has been determined that this rule is not a significant regulatory action under Executive Order 12866.

Signing Authority

This regulation is being issued in accordance with 19 CFR 0.1(a)(1).

List of Subjects in 19 CFR Part 12

Cultural property, Customs duties and inspection, Imports, Prohibited merchandise.

Amendment to CBP Regulations

For the reasons set forth above, part 12 of title 19 of the Code of Federal Regulations (19 CFR part 12), is amended as set forth below:

PART 12—SPECIAL CLASSES OF MERCHANDISE

■ 1. The general authority citation for part 12 and the specific authority citation for § 12.104g continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1624.

* * * * *

Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

* * * * *

§ 12.104g [Amended]

■ 2. In § 12.104g, paragraph (a), the table is amended in the entry for Colombia by removing the reference to ''CBP Dec. 11–06'' and adding in its place ''CBP Dec. 16–05''.

R. Gil Kerlikowske,

Commissioner, U.S. Customs and Border Protection.

Approved: March 10, 2016.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 2016–05811 Filed 3–14–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 924

[Docket No. FHWA–2013–0019]

RIN 2125–AF56

Highway Safety Improvement Program

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to incorporate changes to the Highway Safety Improvement Program (HSIP) regulations to address provisions in the Moving Ahead for Progress in the 21st Century Act (MAP–21) as well as to incorporate clarifications to better explain existing regulatory language. The DOT also considered the HSIP provisions in the Fixing America's Surface Transportation Act (FAST Act) in the development of the HSIP final rule. Specifically, this rule removes the requirement for States to prepare a Transparency Report that describes not less than 5 percent of locations that exhibit the most severe safety needs, removes the High Risk Rural Roads (HRRR) set-aside, and removes the 10

percent flexibility provision for States to use safety funding in accordance with Federal law. This rule also establishes a subset of roadway data elements, and creates procedures to ensure that States adopt and use the subset. Finally, this rule adds State Strategic Highway Safety Plan update requirements and requires States to report HSIP performance targets.

DATES: This final rule is effective April 14, 2016.

FOR FURTHER INFORMATION CONTACT: Ms. Karen Scurry, Office of Safety, *karen.scurry@dot.gov;* or William Winne, Office of the Chief Counsel *william.winne@dot.gov,* Federal Highway Administration, 1200 New Jersey Ave. SE., Washington, DC 20590. Office hours are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

This document, the notice of proposed rulemaking (NPRM), and all comments received may be viewed online through: *http://www.regulations.gov.* Electronic submission and retrieval help and guidelines are available on the Web site. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from the Office of the Federal Register's home page at: *http://www.ofr.gov* and the Government Printing Office's Web page at: *http://www.gpo.gov.*

Executive Summary

I. Purpose of the Regulatory Action

The Moving Ahead for Progress in the 21st Century Act (MAP–21) (Pub. L. 112–141) and the Fixing America's Surface Transportation Act (FAST Act) (Pub. L. 114–94) continue the Highway Safety Improvement Program (HSIP) under section 148, title 23 of the United States Code (U.S.C.) as a core Federal-aid program with the purpose to achieve a significant reduction in fatalities and serious injuries on all public roads. The MAP–21 amended the HSIP by requiring the DOT to establish several new requirements and removes several provisions that were introduced under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU). A revision to 23 CFR part 924 is necessary to align with the MAP–21 and FAST provisions and clarify existing program requirements. A key component of this rule is the requirement for States to collect and use a set of roadway data elements for all public roadways, including local roads. Data elements include elements to classify and delineate roadway segments (*e.g.,* beginning and end point descriptors), elements to identify roadway physical characteristics (*e.g.,* median type and ramp length), and elements to identify traffic volume. The purpose of this requirement, in addition to satisfying a statutory requirement, is to improve States' ability to estimate expected number of crashes at roadway locations, with the ultimate goal to improve States' allocation of safety resources.

II. Summary of the Major Provisions of the Regulatory Action in Question

This final rule retains most of the major NPRM provisions without change, with the exception of the Model Inventory of Roadway Elements (MIRE) fundamental data elements (FDE). The MAP–21 requires DOT to establish a subset of model roadway elements (a.k.a. MIRE) FDE (23 U.S.C. 148(e)(2)(A)). Based on the review and analysis of comments received in response to the NPRM, FHWA revised the required MIRE FDE in this final rule to clarify where the data elements shall be collected (*i.e.* based on functional classification, rather than volume). The MIRE FDE are the minimum roadway data elements an agency would need to conduct system-wide network screening and can be divided into the following categories: (1) MIRE FDE that define roadway segments, intersections and interchanges/ramps, (2) MIRE FDE that delineate basic information needed to characterize the roadway type and exposure, and (3) MIRE FDE that identify governmental ownership and functional classification consistent with the HSIP reporting requirements. The FHWA believes that the roadway data elements are the fundamental set of data elements that an agency would need in order to conduct enhanced safety analyses to improve safety investment decisionmaking through the HSIP. The MIRE FDE also has the potential to support other safety and infrastructure programs in addition to the HSIP.

The MAP–21 also requires the DOT to establish the update cycle for Strategic Highway Safety Plans (SHSP) (23 U.S.C. 148(d)(1)(A)) and the content and schedule for the HSIP report (23 U.S.C. 148(h)(2)). An SHSP is a statewide-coordinated safety plan that identifies a State's key safety needs and guides investment decisions toward strategies and countermeasures with the most potential to save lives and prevent injuries. This final rule establishes an SHSP update cycle of at least every 5 years, consistent with the NPRM and current practice in most States. For example, 45 States updated their SHSP or had an SHSP update underway within a 5-year timeframe. A number of those States are on the third version of their SHSP. Of those States that have not delivered an SHSP update, they have an update planned or well underway. The final rule also maintains the requirement that States submit their HSIP reports on an annual basis, by August 31 each year. In addition to existing reporting requirements, DOT requires that State DOTs document their safety performance targets required under 23 U.S.C. 150(d) and the basis on which those targets were established in their annual HSIP report, and describe progress to achieve those safety performance targets in future HSIP reports. The DOT also requires States to use the HSIP online reporting tool to submit their annual HSIP reports, consistent with the NPRM and the Office of the Inspector General's recommendations in the 2013 HSIP Audit.[1] Currently, a majority of States use the HSIP online reporting tool to submit their annual HSIP reports. All HSIP reports are publicly available on the FHWA Web site.[2]

While the MAP–21 allowed HSIP funds to be eligible for any type of highway safety improvement project (*i.e.,* infrastructure or non-infrastructure); the FAST Act limits this flexibility. In response to the FAST Act provisions and comments received on the NPRM, FHWA removes the provision that required FHWA to assess the extent to which other eligible funding programs are programmed for non-infrastructure projects prior to using HSIP funds for these purposes in this final rule. The DOT also adopts language throughout the final rule to be consistent with the performance management requirements under 23 U.S.C. 150.

Lastly, as described in the NPRM, this final rule removes all existing references to the HRRR Program, 10 percent flexibility provisions, and transparency reports since MAP–21 eliminated these provisions.

III. Costs and Benefits

Of the three requirements mandated by MAP–21 and addressed in this rule (MIRE FDE, SHSP update cycle, and

[1] Office of the Inspector General, *Audit Report: FHWA Provides Sufficient Guidance and Assistance to Implement the Highway Safety Improvement Program but Could Do More to Assess Program Results,* Report Number: MH–2013–055, March 26, 2013, is available at the following Internet Web site: *https://www.oig.dot.gov/sites/default/files/FHWA's%20Highway%20Safety%20Improvement%20Program%5E3-26-13.pdf.*

[2] HSIP reports can be found at the following Internet Web site: *http://safety.fhwa.dot.gov/hsip/reports*

HSIP Report Content and Schedule), FHWA believes that only the requirement regarding the MIRE FDE would result in additional costs. The SAFETEA–LU and the existing regulation already require States to update their SHSP on a regular basis; the final rule establishes a cycle of at least every 5 years for States to update their SHSP. The final rule does not change the existing schedule for the HSIP report. The MAP–21 results in only minimal proposed changes to the HSIP report content related to reporting safety performance targets required under 23 U.S.C. 150(d); however, additional costs as a result of this new content are negligible and the removal of the transparency report requirements reduces existing reporting costs. The costs to establish the safety performance targets required under 23 U.S.C. 150(d) are considered under the concurrent rulemaking for safety performances measures (Docket number FHWA–2013–020). There were no comments to the docket indicating that any of the changes listed above, other than those relating to MIRE FDE, would result in increased costs to the States. Therefore, FHWA bases its cost-benefit analysis on the MIRE FDE component only and uses the ''MIRE Fundamental Data Elements Cost-Benefit Estimation'' Report [3] for this purpose.

Table 1 displays the estimated total net present value cost of the requirements for States to collect, maintain, and use the proposed MIRE FDE for all public roadways.

Total costs are estimated to be $659.1 million undiscounted, $508.0 million discounted at 3 percent, and $378.7 million discounted at 7 percent. Although not a specific requirement of this final rule, the cost estimate also includes an estimate of the cost for States to extend their statewide linear referencing system (LRS) to all public roads, since an all-public-roads LRS is a prerequisite to realizing the full benefits from collecting and using the MIRE FDE. This cost is estimated to be $32,897,622 nationally (discounted at 7 percent). The cost estimates reflect the additional costs that a State would incur based on what is not being collected through the Highway Performance Monitoring System (HPMS) or not already being collected through other efforts. In order for the rule to have net safety benefits, States would need to analyze the collected data, use it to identify locations with road safety improvement potential, shift project funding to those locations, and those projects would need to have more safety benefits than the projects invested in using current methods which do not incorporate the proposed MIRE FDE. Additional costs for data quality control, local agency coordination, and data analysis are also included in the MIRE FDE Cost-Benefit Estimation Report.

TABLE 1—TOTAL ESTIMATED NET PRESENT VALUE NATIONAL COSTS FOR MIRE FDE

[2015–2035 Analysis period]

Cost components	Total national costs (net present value)		
	Undiscounted	3%	7%
Cost of Section 924.17:			
Linear Referencing System (LRS)	$34,010,102	$33,514,809	$32,897,622
Initial Data Collection	113,395,680	96,253,460	78,854,599
Roadway Segments	68,879,288	57,899,768	46,795,474
Intersections	2,161,256	1,816,747	1,468,323
Interchange/Ramp locations	1,057,984	889,339	718,777
Volume Collection	41,297,152	35,657,606	29,872,025
Maintenance of data system	65,683,740	45,319,305	28,907,829
Management & administration	6,410,685	5,388,807	4,355,316
Miscellaneous	499,585,598	327,522,078	233,726,851
Total Cost	659,085,805	508,008,459	378,742,217

The cost for developing a statewide LRS would equate to on average $645,051 for each State and the District of Columbia. The cost for data collection for an average State is estimated to be $1,546,169 for the initial data collection and $85,398 for management and administration costs,[4] $566,820 for maintenance costs [5] and $4,582,879 for miscellaneous costs [6] over the analysis period of 2015–2035 (2014 U.S. dollars).[7] These estimates are net present value average costs on a per average State basis discounted at 7 percent. As such, across the 50 States and the District of Columbia, it is possible that the aggregate cost for the initial data collection would be approximately $79 million over 10 years and the total maintenance, management, and administration and miscellaneous costs would approach $267 million over the 20 year analysis period.[8]

The MIRE FDE are beneficial because collecting this roadway and traffic data and integrating those data into the safety analysis process would improve an agency's ability to locate problem areas and apply appropriate countermeasures, hence improving safety. The FHWA did not estimate the benefits of this rule. Instead, FHWA has conducted a breakeven analysis. There were no comments to the docket indicating that a different type of analysis should be performed, except that the cost-benefit analysis should also consider a benefit/cost ratio of 10:1 since this is the average benefit/cost ratio for a typical highway safety improvement project. Table 2 shows the reduction in fatalities and injuries due to improvements in

[3] ''MIRE Fundamental Data Element Cost-Benefit Estimation,'' dated May 13, 2015, is available on the docket for this rulemaking.

[4] DOT defines management and administration costs as the costs to administer contracts for data collection. The analysis estimates management and administration costs at 5 percent of the estimated initial MIRE FDE collection costs. The analysis assumes management and administration costs would not exceed $260,000 per State.

[5] DOT defines maintenance costs as the costs to update the data as conditions change. The analysis assumes that 2 percent of roadway mileage would need to be updated annually.

[6] DOT defines miscellaneous costs include the one-time cost of developing an implementation plan and cost of data collection mobilization and annual ongoing costs of local agency partner liaison, formatting and analyzing enhanced data and desktop and web application.

[7] ''MIRE Fundamental Data Element Cost-Benefit Estimation,'' dated May 13, 2015 is available on the docket for this rulemaking.

[8] Ibid.

safety investment decisionmaking with the use of the MIRE FDE that would be needed for the costs of the data collection to equal the benefits and for the benefits to exceed the cost 10 times.

TABLE 2—ESTIMATED BENEFITS NEEDED TO ACHIEVE COST-BENEFIT RATIOS OF 1:1 AND 10:1

[2015–2035 Analysis period]

Benefits	Number of lives saved/injuries avoided nationally	
	Benefit/Cost ratio of 1:1	Benefit/Cost ratio of 10:1
# of lives saved (fatalities)	76	763
# of injuries avoided	5,020	50,201

Using the 2014 comprehensive cost of a fatality of $9,300,000 and $109,800 for an average injury,[9] results in an estimated reduction of one fatality and 98 injuries per average State over the 2015–2035 analysis period would be needed to result in a benefit-cost ratio greater than 1:1.[10] To achieve a benefit/cost ratio of 10:1, each State would need to reduce fatalities by 15 and injuries by 984 over the same analysis period.[11] The FHWA believes this is possible because the MIRE FDE, in combination with crash data, will support more cost-effective safety investment decisions and ultimately yield greater reductions in fatalities and serious injuries per dollar invested. Further, the experiences to date in States that are already collecting and using roadway data comparable to the MIRE FDE suggests there is a very high likelihood that the benefits of collecting and using the proposed MIRE FDE will outweigh the costs.

Background

On March 28, 2014, at 79 FR 17464, the FHWA published a NPRM proposing to revise the regulations in 23 CFR part 924 Highway Safety Improvement Program. The HSIP is a core Federal-aid program with the purpose to achieve a significant reduction in fatalities and serious injuries on all public roads. The HSIP requires a data-driven, strategic approach to improving highway safety on all public roads that focuses on performance. The NPRM was published to incorporate the new statutory requirements of MAP–21 and the FAST Act, as well as general updates to provide consistency with 23 U.S.C. 148 and to provide State and local safety partners with clarity on the purpose, definitions, policy, program structure, planning, implementation, evaluation, and reporting of the HSIP. Specifically, MAP–21 removed the requirement for States to prepare a Transparency Report, removed the HRRR set-aside, and removed the 10 percent flexibility provision for States to use safety funding in accordance with 23 U.S.C. 148(e) [as it existed under SAFETEA–LU]. The MAP–21 also adds data system and improvement requirements, State SHSP update requirements, and requirements for States to develop HSIP performance targets. The DOT is addressing specific requirements related to HSIP performance target requirements through a separate, but concurrent, rulemaking effort (FHWA–2013–0020).

Stakeholder Outreach

As discussed above, the MAP–21 required the Secretary of Transportation to establish a subset of the model inventory of roadway elements, or the MIRE FDE, that are useful for the inventory of roadway safety. The U. S. Government Accountability Office (GAO) supported collection of FDEs on the progress made toward accomplishing the HSIP goals in a November 2008, report entitled ''Highway Safety Improvement Program: Further Efforts Needed to Address Data Limitations and Better Align Funding with States' Top Safety Priorities.'' As discussed in the NPRM, the GAO report recommended that the Secretary of Transportation direct the FHWA Administrator to take specific actions and FHWA published, ''Guidance Memorandum on Fundamental Roadway and Traffic Data Elements to Improve the Highway Safety Improvement Program.'' [12] As part of addressing GAO's recommendations, FHWA engaged in efforts to obtain public input. The FHWA hosted a peer exchange at the 2009 Asset Management Conference, two Webinars in December 2009, and one listening session at the January 2010 Transportation Research Board meeting to obtain input on possible approaches to address the GAO's recommendations. During the Webinars and the listening session, FHWA listened carefully to the comments and concerns expressed by the stakeholders and used that information when developing the August 1, 2011, Guidance Memorandum. The August 1 Guidance Memorandum formed the basis for the State Safety Data System guidance published on December 27, 2012.

Summary of Comments

The FHWA received 62 letters submitted to the docket containing approximately 425 individual comments. Comments were received from 41 State departments of transportation (State DOT), 4 local government agencies, 10 associations (*e.g.* the American Association of State Highway and Transportation Officials (AASHTO), American Transportation Safety Services Association (ATSSA), and Geospatial Transportation Mapping Association (GTMA)), and 7 private citizens. The FHWA has reviewed and analyzed all the comments received. The FHWA has also reviewed and considered the implications of the FAST Act on the HSIP Final Rule. The significant issues raised in the comments and summaries of the FHWA's analyses and determinations are discussed below.

Section 924.1 Purpose

The FHWA did not receive any substantive comments regarding the proposed change to clarify that the purpose of this regulation is to prescribe requirements for the HSIP, rather than to set forth policy and therefore revises the regulation as proposed.

[9] ''Guidance on Treatment of the Economic Value of a Statistical Life (VSL) in U.S. Department of Transportation Analyses, 2014 Update. *www.dot.gov/regulations/economic-values-used-in-analysis.*

[10] Ibid.

[11] Ibid.

[12] Guidance Memorandum on Fundamental Roadway and Traffic Data Elements to Improve the Highway Safety Improvement Program, issued August 1, 2011 can be viewed at the following Internet Web site: *http://safety.fhwa.dot.gov/tools/data_tools/memohsip072911/.*

Section 924.3 Definitions

As proposed in the NPRM, FHWA removes the following definitions because they are no longer used in the regulation: ''integrated interoperable emergency communication equipment,'' ''interoperable emergency communications system,'' ''operational improvements,'' ''safety projects under any other section,'' ''State,'' and ''transparency report.'' There were no substantive comments to the docket regarding the proposed removal of these definitions; therefore FHWA removes them in this final rule.

In the NPRM, FHWA also proposed to remove the definition of ''high risk rural road'' (HRRR) because this term is no longer used in the regulation. The Delaware DOT supported the removal of the term. However, ATSSA and the American Highway Users Alliance suggested retaining the definition of the term ''high risk rural road'' because there is still a special rule that links to HRRRs in MAP–21. The Arizona DOT suggested that, if an HRRR is considered a public road, it should be treated like any other public road, rather than as part of a special rule, and HSIP funds should be used to target locations of high frequency of fatalities or serious injuries. As a result, Arizona DOT suggested that a consistent definition for HRRR should be established that applies to all States. Under 23 U.S.C. 148(a)(1), States have the flexibility to define high risk rural road in accordance with their updated SHSP. Because the definitions portion of the regulation is meant to define specific terms used in the regulation, the FHWA deletes the definition in the final rule, since the term is not used in the regulation.

In the NPRM, the FHWA proposed to remove the definition of ''highway-rail grade crossing protective devices'' from the regulation. The ATSSA, the Railway Supply Institute, and the American Highway Users Alliance all opposed the removal of the definition. The Railway Supply Institute and the American Highway Users Alliance cited the provisions in 23 U.S.C. 130 that allow funds to be available for the installation of protective devices at railway-highway crossings. The commenters suggested that given that statutory requirement, it is important to provide a clear definition of the type of devices eligible for funding under this section of law, and that the existing definition of protective devices in 23 CFR 924.3 does that and should be retained. In addition, commenters noted that a version of this term was retained in 23 CFR 924.11. The FHWA agrees and retains the definition in the final rule with a slight modification to the term, revising it to ''railway-highway crossing protective device.'' The FHWA uses the term ''railway'' rather than railroad throughout the regulation for consistency with the program title under 23 U.S.C. 130.

Although FHWA did not propose a change to the term ''hazard index formula'' the FHWA received a comment from Washington State DOT suggesting the term implies an unsafe condition. The AASHTO and Georgia DOT commented that the term ''hazard,'' which is used throughout the regulation, implies an unsafe condition on a roadway. The commenters suggested that the use of the term ''hazard'' creates a liability for many State DOTs since it implies that an unsafe condition does exist when it does not. The commenters requested that the term ''risk'' or ''relative risk'' be used, because it would be more accurate and not inadvertently create potential liability for State DOTs, and would be more in keeping with the state of the practice. Because ''hazard index formula'' is an industry standard term and changing it would cause confusion, FHWA retains the existing term. The FHWA agrees with the commenter that the hazard index formula is used for determining the relative risks at a railway-highway crossing and therefore revised the definition to refer to ''relative risk.'' Because the term ''hazard'' is used throughout the legislation, FHWA retains the term for consistency between the legislation and the regulation.

In the NPRM, FHWA proposed to revise the definition for the term ''highway'' to clarify the definition of 23 U.S.C. 101(a) and the provision that HSIP funds can be used for highway safety improvement projects on any facility that serves pedestrians and bicyclists pursuant to 23 U.S.C. 148(a)(4)(B)(v) and (e)(1)(A). The GTMA suggested that, given the role of roadway pavement markings in supporting advanced lane detection vehicle technologies, the term ''markings'' be included as one of the associated elements of a road, street, or parkway in the definition of the term ''highway.'' The FHWA agrees and includes ''markings'' in the definition of the term ''highway.''

The FHWA proposed to revise the definition of ''highway safety improvement program'' in the NPRM by adding the acronym ''HSIP'' to indicate that when the acronym HSIP is used in the regulation it is referring to the program carried out under 23 U.S.C. 130 and 148, and not the program of highway safety improvement projects. The FHWA proposed to include a listing of the HSIP components—Strategic Highway Safety Plan (SHSP), Railway-Highway Crossings program, and program of highway safety improvement projects—in the definition. The GTMA suggested that the definition indicate that the program is designed to significantly reduce traffic fatalities and serious injuries on all public roads through the implementation of the provisions in 23 U.S.C. 130 and 148. The FHWA agrees and revises the definition to indicate that the purpose of the HSIP is to reduce fatalities and serious injuries on all public roads through the implementation of the provisions of 23 U.S.C. 130, 148, and 150. The FHWA adds a reference to 23 U.S.C. 150 in the final rule to be inclusive of all applicable legislation. The FHWA also adds the term ''data-driven,'' as suggested by the Rhode Island DOT, to describe the SHSP and to clarify that it is developed from a data-driven approach.

In the NPRM, FHWA proposed to revise the definition of ''highway safety improvement project'' to specify that it includes strategies, activities, and projects and that such projects can include both infrastructure and non-infrastructure projects under 23 U.S.C. 148(a)(4)(A) and (c)(2)(C)(i). The ATSSA disagreed with the expansion of the definition to include both infrastructure and non-infrastructure projects, stating that the HSIP was created to focus on safety infrastructure investments. The FAST Act limits HSIP eligibility to the inclusions list in 23 U.S.C. 148(a)(4)(B). Therefore, FHWA removes the general reference to non-infrastructure projects as proposed in the NPRM. The ATSSA also disagreed with the removal of the listing of example projects from the regulation. The ATSSA reasoned that the list was created for a reason to serve as a guidepost and to direct States in their investment decisions, and that while it is not an exhaustive list, it does reiterate the types of infrastructure projects that funds should be focused on in the States. Because it is not an exhaustive list, FHWA believes it is best to refer readers to 23 U.S.C. 148(a) for the most current list of example projects.

The FHWA replaces the term ''public grade crossing'' with ''public railway-highway crossing'' because the term public grade crossing is no longer used in the regulation. It was replaced with public railway highway crossing in section 924.9 in the NPRM. In addition, consistent with the NPRM, FHWA revises the definition of this term to clarify that associated sidewalks, pathways, and shared use paths are also

elements of a public grade crossing pursuant to 23 U.S.C. 130(l)(4)(A)(i) and (ii). There were no substantive comments regarding this change.

The ATSSA, GTMA, and Maine DOT supported the proposed addition to the definition of ''public road'' that non-State-owned public roads and roads on tribal lands are considered public roads pursuant to 23 U.S.C. 148(a)(12)(D), (b)(2), (c)(2)(A)(i), (c)(2)(D)(ii), and (d)(1)(B)(viii) in the NPRM. Virginia DOT suggested clarification regarding Federal roadways as well as alleys and service roads maintained by a public agency. The FHWA reiterates that Federal roadways are included in the definition of public road, unless otherwise noted, and that a public road is any road open to public travel, which includes alleys and service roads. The purpose of the HSIP is to reduce fatalities and serious injuries on all public roads. Therefore, FHWA encourages State DOTs to coordinate with all relevant stakeholders to meet the requirements of the program. Comments from Alaska and Arizona DOTs regarding data collection on public roads and roads open to public travel are addressed in section 924.17.

Although FHWA did not propose changes to the term ''road safety audit'' in the NPRM, ATSSA suggested that FHWA clarify that the purpose of the ''road safety audit'' is to improve road safety for all users. The FHWA agrees and makes this change in the final rule.

The FHWA removes ''vehicle data'' from the listing of safety data components in the definition of ''safety data'' to be consistent with MAP–21, 23 U.S.C. 148(a)(9)(A), as proposed in the NPRM. As suggested by the GTMA, FHWA adds the term ''characteristics'' to reinforce that ''roadway'' refers to the physical attributes of the road segment.

In the NPRM, FHWA proposed to expand the definition of ''safety stakeholder'' to include a list of stakeholders. Although the list is not exhaustive, FHWA proposed including this list to ensure that States are aware of the range of stakeholders that are, at a minimum, required to be involved in SHSP development and implementation efforts. While the Mid-America Regional Council (the Metropolitan Planning Organization (MPO) for the bi-state Kansas City region) supported the inclusion of MPOs in the list of safety stakeholders, the GTMA suggested that FHWA add State and local emergency medical response officials and private sector representatives involved with roadway safety and data collection because they could provide valuable perspectives on the impacts of crashes. The FHWA agrees that these entities could provide meaningful information and States are encouraged to include such entities, as well as others that are not listed, in their safety planning efforts. The FHWA retains the definition as proposed in the NPRM to be consistent with MAP–21.

Although FHWA proposed to revise the definition of ''serious injury'' in the NPRM, FHWA deletes the definition of ''serious injury'' in the final rule due to the concurrent rulemaking for safety performance measures (FHWA–2013–0020 at 79 FR 13846). A specific definition of serious injury is not necessary for this regulation. States have effectively managed the HSIP using their own definition for serious injury since the inception of the HSIP. The MAP–21 or FAST did not make any changes to how the HSIP is managed or administered regarding serious injury. Not including a serious injury definition in this regulation gives States the flexibility to consider their own definition of serious injuries for problem identification. However, since it is necessary for all States to use the same definition of ''serious injury'' for safety performance measures, the term will be defined exclusively in 23 CFR part 490.

In the NPRM, FHWA proposed to revise the definition of ''strategic highway safety plan'' to indicate that the SHSP is a multidisciplinary plan, rather than a data-driven one to be consistent with MAP–21. Wisconsin DOT supported the concept that the SHSP is a multidisciplinary plan and that the multidisciplinary component is an important part of the plan. The Rhode Island DOT indicated that they view the SHSP as a multidisciplinary plan that is developed from a data-driven approach, and therefore felt that removing data-driven requirement from SHSP seems to contradict with the objective of HSIP. Delaware DOT and ATSSA also disagreed with removing the term ''data-driven'' and suggested it be retained due to the importance of linking investments of HSIP funds to data in MAP–21. The FHWA agrees that the SHSP should be developed based on data and revises the definition in the final rule to reflect that the SHSP is a comprehensive, data-driven plan consistent with the definition in 23 U.S.C. 148. The term comprehensive as used here means multidisciplinary. Additional clarification will be provided in guidance.

In the NPRM, FHWA proposed to add definitions for ''spot safety improvement'' and ''systemic safety improvement'' to clarify the difference between these types of improvements. The Minnesota DOT suggested further clarification to the definition of ''systemic safety improvement,'' since it goes beyond a countermeasure that is being widely installed. Minnesota DOT suggested further definition is needed so States can confidently deploy systemic safety projects in small quantities when needed, and prohibit large quantity deployments of unproven countermeasures under the guise of a systemic safety project. The FWHA agrees and revises the definition in the final rule to indicate that systemic safety improvements are proven safety countermeasures. The FHWA adopts the definition for ''spot safety improvement'' as proposed in the NPRM.

As proposed in the NPRM, FHWA adds two definitions of terms used in the regulation: ''Model Inventory of Roadway Elements (MIRE) Fundamental Data Elements'' and ''reporting year.'' There were no significant comments to the docket regarding these definitions; however, FHWA incorporates minor editorial changes to the definition of ''Model Inventory of Roadway Elements (MIRE) Fundamental Data Elements'' in the final rule.

Section 924.5 Policy

As proposed in the NPRM, FHWA incorporates minor editorial modifications in paragraph (a) to explicitly state that the HSIP's objective is to significantly reduce fatalities and serious injuries, rather than ''the occurrence of and potential for fatalities and serious injuries'' as written in the existing regulation.

In the NPRM, FHWA proposed to delete from paragraph (b) the provisions related to 10 percent flex funds, due to the removal of the flex fund provisions in MAP–21. The AASHTO and Georgia DOT supported the elimination of the 10 percent flex funds provision in exchange for being able to use the funds to maximize the potential safety benefit of HSIP expenditures. The FHWA also proposed to add language that funding shall be used for highway safety improvement projects that maximize opportunities to advance safety consistent with the State's SHSP and have the greatest potential to reduce the State's fatalities and serious injuries. The AASHTO and Minnesota DOT suggested that the language, as proposed, appeared to be unduly detailed or prescriptive and would not allow a State the flexibility and ability to program safety projects that might act to curtail State programming flexibility beyond any statutory requirement. Georgia DOT also expressed concern that the proposed language implies that all projects can be compared side-by-

side to one another, which is not possible or practicable. Montana DOT expressed similar concerns. As a result, the FHWA revises the language in the final rule to state that HSIP funds shall be used for highway safety improvement projects that are consistent with the State's SHSP, and that HSIP funds should be used to maximize the opportunities to advance highway safety improvement projects that have the greatest potential to reduce the State's roadway fatalities and serious injuries.

In the NPRM, FHWA further proposed to clarify that prior to using HSIP funds for non-infrastructure related safety projects, other Federal funds provided to the State for non-infrastructure safety programs (including but not limited to those administered by the National Highway Traffic Safety Administration (NHTSA) and Federal Motor Carrier Safety Administration (FMCSA)) should be fully programmed. The FHWA's intent in the NPRM was for States to use all available resources to support their highway safety needs and make progress toward a significant reduction in fatalities and serious injuries on all public roads. The NPRM further stated that in the case of non-infrastructure projects involving NHTSA grant funds, State DOTs should consult State Highway Safety Offices about the project eligibility under 23 U.S.C. 402.

The AASHTO expressed concern that a lack of flexibility by the Federal agencies will impact any opportunities that States may have to be innovative in using such funds to address non-infrastructure types of safety projects. The AASHTO, virtually all of the States that commented on this provision, California Walks, and a private citizen supported the ability to use HSIP funds for non-infrastructure projects, but expressed concern that the added requirement of ''all other eligible funding for non-infrastructure projects must be used prior to using HSIP funds'' may be limiting and a detriment. Michigan DOT stated that non-HSIP funding for non-infrastructure based safety solutions may not be under the direction of the State DOT and, therefore, the flexibility of State DOTs in the use of HSIP funding should not be restricted by the decisions made on how non-HSIP funds are used by other entities. The AASHTO stated that if a non-infrastructure project/program meets the HSIP approved criteria, the State DOT should be able to utilize the funds as needed. The Michigan DOT also suggested that the Federal-aid highway program is a State-administered, federally funded program, and the proposed language appears to exceed the boundaries of the Federal role in project selection. The ATSSA expressed disagreement with the use of HSIP funds for non-infrastructure projects. The GTMA expressed support for the use of HSIP funds to integrate FMCSA and NHTSA crash data into a basemap designed to develop a more comprehensive and strategic approach to safety, including training and other data initiatives to assist in using basemap data to assist in the enforcement of behavioral and FMCSA-related laws. They also expressed their support for the use of HSIP funds for the collection of mobile imaging, LiDAR, retroreflectivity, friction and 3D pavement and bridge deck imaging data. Understanding the need to strike a balance, GTMA encouraged FHWA to put in place strong accounting measures to ensure that any funds transferred from HSIP to other safety or non-safety programs be traceable and that a justification be provided prior to approval. The GTMA strongly supported the proposed provision to require other eligible funding to be used for non-infrastructure projects in order to help maintain programmatic integrity and transparency among the various safety programs. Georgia, Kentucky, Idaho, Montana, North Dakota, South Dakota, and Wyoming DOTs suggested there be a stronger tie to fund projects and programs that are supported by the SHSP. The FAST Act limits HSIP eligibility to the inclusions list in 23 U.S.C. 148(a)(4)(B); accordingly, the FHWA removes this provision in the final rule.

As proposed in the NPRM, FHWA removes the first sentence of existing paragraph (c) regarding the use of other Federal-aid funds, since this information is repeated in § 924.11 (Implementation) and is better suited for that section. The FHWA also incorporates minor edits to the paragraph to provide more accurate references to the National Highway Performance Program (NHPP) and the Surface Transportation Program (STP) Federal-aid programs, and removes references to the Interstate Maintenance (IM), National Highway System (NHS), and Equity Bonus funding sources, since these funding programs have been consolidated into other program areas. The California State Association of Counties (CSAC) expressed concerns with the policy that safety improvements that are provided as part of a broader Federal-aid project should be funded from the same source as the broader project. The CSAC expressed support for the principle that safety should be considered in all Federal-aid projects, yet cautioned that there may be circumstances when a smaller agency would need to use HSIP funding in addition to other funding sources in order to deliver a complete project. Alaska DOT suggested that the proposed changes are less clear and limit flexibility by limiting funding to one type of Federal-aid per project.

The FHWA's intent is not to limit flexibility, rather to promote the use of all available funding sources to implement safety improvements. In general, it is FHWA's policy that safety improvements/features should be funded with the same source of funds as the primary project. However, FHWA realizes there are some exceptions that may occur on a limited basis, such as when a programmed highway safety improvement project(s) overlaps with a standard road project, or for a designated period of time when a State wishes to advance implementation of an innovative safety countermeasure. The FHWA reiterates that the intent of this provision remains unchanged from the existing HSIP regulation and retains the proposed language.

Section 924.7 Program Structure

In paragraph (a), FHWA clarifies the structure of the HSIP, as proposed in the NPRM, by specifying that the HSIP is to include a SHSP, a Railway-Highway Crossings Program, and a program of highway safety improvement projects. As discussed in the NPRM, FHWA believes that listing the three main components will help States better understand the program structure. The GTMA expressed support for this change.

In the NPRM, FHWA proposed to clarify in paragraph (b) that the HSIP shall include a separate process for planning, implementation, and evaluation of the HSIP components described in § 924.7(a) for all public roads in the State. The North Carolina DOT suggested that the language needed to be clarified if the intent of the revision is to require the HSIP process to cover all public roads versus develop different processes for State maintained and non-State maintained public roads. As a result, FHWA revises the final rule to clarify that the HSIP process shall address all public roads in the State. The FHWA also incorporates minor revisions, as proposed in the NPRM, to require that the processes be developed in cooperation (rather than consultation) with the FHWA Division Administrator and be developed in consultation (rather than cooperatively) with officials of the various units of local and tribal governments; it further adds that other safety stakeholders shall also be consulted, as appropriate. In addition,

FHWA clarifies that the processes developed are in accordance with the requirements of 23 U.S.C. 148. Finally, FHWA removes the existing last sentence of the regulation that references what the processes may include, since that language is more appropriate for guidance documents, rather than regulation.

The GTMA supported the revisions in this section with the suggestion that additional stakeholders be included in the definition of ''safety stakeholder'' in § 924.3.

Section 924.9 Planning

As discussed in the NPRM, FHWA reorganizes and revises paragraph (a) so that it reflects the sequence of actions that States should take in the HSIP planning process. As a result of this reorganization, the HSIP planning process now includes six distinct elements, including a separate element for updates to the SHSP, which currently exists under the safety data analysis process. The FHWA also removes existing paragraph (a)(3)(iii) regarding the HRRR program to reflect the change in statute. While there were no public comments regarding the proposed reorganization of paragraph (a), there were comments related to several individual items, which are included in the discussion below along with key revisions to each element of § 924.9(a).

The FHWA revises paragraph (a)(1) to group data as ''safety data,'' rather than specifying individual data components and specifies that roadway data shall include MIRE FDE as defined in § 924.17 and railway-highway crossing data shall include all fields from the DOT National Highway-Rail Crossing Inventory. As discussed in the NPRM, MIRE FDE are a basic set of elements an agency would need to conduct enhanced safety analyses regardless of the specific analysis tools used or methods applied and they have the potential to support other safety and infrastructure programs in addition to the HSIP. While Washington State DOT supported including safety data on all public roads, the Wyoming, South Dakota, North Dakota, Indiana, Vermont, Massachusetts, Utah, Montana, Oklahoma, Illinois, Kentucky, Arizona, North Carolina, California, and Virginia DOTs all expressed concern with collecting MIRE FDE on all public roads. These DOTs expressed concerns related to collecting data on low volume, unpaved, and tribal lands roads where there are not significant numbers of crashes or safety concerns compared to other roads. The commenters suggested that the time required to collect such data, as well as the associated costs, creates extra burden and resource investments. The GTMA supported the efforts to create a nationwide base map of all public roads and suggested that the MIRE FDE are in line with MAP–21 requirements. The FHWA retains the language for paragraph (a)(1) as proposed in the NPRM, but incorporates substantial changes to the MIRE FDE as discussed below in § 924.17 to address comments expressing concern for the increased cost and burden for collecting data on all public roads.

As proposed in the NPRM, FHWA revises paragraph (a)(2) to clarify that safety data includes all public roads. The FHWA retains the language for paragraph (a)(2) as proposed in the NPRM, with minor editorial changes.

As proposed in the NPRM, FHWA reorders and combines some of the items formerly in paragraph (a)(3)(ii) to reflect the sequence of actions States should take in HSIP planning. The revisions highlight the importance of the SHSP in the HSIP planning process and that it is a separate element. Key revisions, as well as those for which there were significant comments, are discussed herein. The MAP–21 requires FHWA to establish a SHSP update cycle, so FHWA proposed a maximum 5-year update cycle in paragraph (a)(3)(i) to reflect current practice in some States. The FHWA received support for the 5-year update cycle from most of the State DOTs who commented about the update cycle. Washington State DOT supported the 5-year update cycle, but also suggested that some States may desire a shorter update cycle. Therefore, Washington State DOT suggested FHWA provide flexibility to allow States to update their SHSP more frequently. Missouri DOT updates their SHSPs every 4 years and requested similar flexibility in the update requirement. The GTMA suggested that States be required to submit their first SHSP 7 years from the date of enactment of MAP–21 and that subsequent plans be updated every 5 years. The MAP–21 requires States to update their SHSP by August 1st of the fiscal year following the establishment of the update requirements. The FHWA retains the language as proposed in the NPRM noting that the regulation also states, ''A SHSP update shall be completed no later than five years from the previous date.'' This language allows States to update their SHSPs more frequently than every 5 years, providing flexibility for States who choose more frequent updates.

Paragraph (a)(3)(iii) proposed the FHWA Division Administrator to approve the update process. Virginia DOT suggested that the requirement for a ''process'' description and approval should be clarified and recommended that language be added to specify when documentation must be submitted to FHWA for review and approval of a State's SHSP update process. The GTMA suggested that any process review be conducted by the FHWA Administrator's office, not the Division Administrator. Their recommendation is that FHWA Division Administrators should provide guidance in the SHSP development process, and since they are involved in the development then someone else should have responsibility for providing approval. The FHWA retains the language as proposed because the FHWA Division Administrators have been delegated the authority to act on behalf of the Administrator. Further, since the Divisions are involved in the update process, they are in the best position to determine if that process is consistent with MAP–21 requirements.

To address comments from AASHTO, Idaho, Montana, North Dakota, South Dakota, Wyoming, and Georgia DOTs, as well as GTMA, FHWA revises paragraph (a)(3)(vii) to reflect that the SHSP update shall identify key emphasis areas and strategies that have the greatest potential to reduce highway fatalities and serious injuries and focus resources on areas of greatest need. The FHWA removes the phrase ''greatest potential for a rate of return on safety investments,'' to address comments suggesting that such language implies preparing project-level cost benefit analyses which are not appropriate at the planning level. The use of the term ''rate of return'' was not intended to reference a statistical methodology. The GTMA suggested changing the phrase ''key features when determining SHSP strategies'' in paragraph (a)(3)(vii) to mirror the legislation to read ''key factors . . .'' The FHWA retains the phrase ''key features,'' as proposed in the NPRM, because FHWA feels this language to be consistent with the level of detail appropriate for the SHSP.

To respond to a comment from GTMA requesting clarification on the process and potential resources for implementing strategies in the emphasis areas described in paragraph (a)(3)(xi), FHWA reiterates that this item serves as a basic, high-level description of the process covered in paragraph (a)(4) and does not require a validation process for each project at this level of SHSP planning. For example, some States (such as Louisiana, Maryland and Pennsylvania) include in their SHSP a section that explains how they plan to

successfully implement the SHSP. They describe the process for ongoing communication and feedback from SHSP partners, which action items have been identified for each partner, and how the plan will be tracked and monitored. Other States (such as Virginia and Rhode Island) have also included emphasis area plans in their SHSPs, which outline the strategies, related action steps, and the agency responsible for implementing the strategies/steps. States can also discuss potential funding sources to implement the SHSP, such as the HSIP, NHTSA's Section 402 funds, etc. There were no comments regarding the remaining paragraphs within paragraph (a)(3), therefore they are revised as proposed in the NPRM.

The FHWA revises this item, as proposed in the NPRM, incorporating a suggestion from Kentucky DOT to phrase paragraph (a)(4)(i) to reflect that the purpose of HSIP is to ''reduce fatalities and serious injuries'' to provide consistent language throughout the regulation. To correspond with changes made in § 924.3, FHWA incorporates minor editorial edits in paragraph (a)(4)(ii) to remove the term ''hazard,'' replacing it with the term ''risk'' and deleting the word ''grade'' from ''railway-highway crossings.''

As stated in the NPRM, paragraph (a)(5) contains no substantial edits.

The FHWA incorporates minor edits in the final rule to reflect comments from Virginia DOT suggesting that the process for establishing priorities for implementing highway safety improvement projects ''considers'' (rather than ''includes'') the sub-items listed. The FHWA believes this revision will provide States with more flexibility in establishing their processes. Given this flexibility, it is important that States conduct a periodic review of their HSIP practices and procedures to identify noteworthy practices and opportunities to advance HSIP implementation efforts.

As proposed in the NPRM, FHWA revises paragraph (b) by changing, adding, and removing references to various legislation for consistency with other sections in this regulation. The FHWA revises the language proposed in the NPRM that clarifies the use of these funding categories is subject to the individual program's eligibility criteria and the allocation of costs based on the benefit to each funding category, to be consistent with Office of Management and Budget's (OMB) revised administrative requirements and cost principles under 2 CFR part 200.

In paragraph (c), as proposed in the NPRM, FHWA clarifies that HSIP-funded non-infrastructure safety projects (*e.g.* transportation safety planning; collection, analysis, and improvement of safety data) shall also be carried out as part of the Statewide and Metropolitan Transportation Improvement Planning (STIP) processes consistent with the requirements of 23 U.S.C. 134 and 135 and 23 CFR part 450. In the NPRM, the FHWA also proposed to add a requirement that States distinguish between infrastructure and non-infrastructure projects in the STIP in order to assist in formalizing the required tracking of the funds programmed on infrastructure and non-infrastructure projects for State and FHWA reporting purposes. Similar to the comments regarding the use of funds for non-infrastructure projects in § 924.5, ATSSA expressed disagreement with the use of HSIP funds for non-infrastructure projects, as did GTMA. The FAST Act limits HSIP eligibility to the inclusions list in 23 U.S.C. 148(a)(4)(B); accordingly, FHWA removes the proposed language requiring States to distinguish between infrastructure and non-infrastructure projects in the STIP.

Section 924.11 Implementation

As proposed in the NPRM, FHWA removes former paragraph (b) describing the 10 percent flex funds and former paragraph (c) describing funding set asides for improvements on high risk rural roads to reflect changes associated with MAP–21.

In the NPRM, FHWA proposed adding new paragraph (b) to require States to incorporate an implementation plan by July 1, 2015, for collecting MIRE FDE in their State's Traffic Records Strategic Plan and that they shall complete collection of the MIRE FDE on all public roads by September 30, 2020. The preamble for the NPRM also stated that due to the uncertainty in time periods for publishing rulemakings, it is possible that the dates will be changed to reflect a specific time period based upon the effective date of a final rule for this NPRM. While the Missouri DOT acknowledged that it could have an implementation plan in place by July 1, 2015, many State DOTs and the Association of Monterey Bay Area Governments stated that the both the July 2015 deadline for an implementation plan and the 5-year deadline for complete collection of MIRE FDE were too aggressive. The AASHTO and California, Maine, Massachusetts, and Missouri DOTs suggested that the proposed September 2020 timeframe for collecting data on all public roads was aggressive and likely not achievable; however, Delaware DOT indicated that they could meet the deadline. The AASHTO, Georgia, Oklahoma, South Dakota, and Vermont DOTs suggested a 10-year timeframe for collecting data would be more appropriate. The GTMA suggested that FHWA amend the language to require complete collection of MIRE FDE on all NHS routes by September 30, 2018, and all public roads by September 30, 2022. The AASHTO suggested that the regulation be modified to allow States to develop an implementation plan that prioritizes the collection of MIRE FDE as resources are made available. Georgia DOT submitted a similar comment.

The FHWA understands concerns expressed by the commenters. As a result, FHWA revises the final rule language to require States to incorporate specific quantifiable and measureable anticipated improvements for the collection of MIRE FDE into their Traffic Records Strategic Plan by July 1, 2017. The additional 2 years provided in this final rule will give States additional time to coordinate with all relevant entities, including local and tribal agencies, to identify and prioritize MIRE FDE collection efforts. The FHWA also revises the final rule to specify that States shall have access to a complete collection of the MIRE FDE on all public roads by September 30, 2026. This change clarifies that States only need to have access to data, rather than to actually collect the data themselves. It also extends the deadline for complete collection of the MIRE FDE on all public roads by 6 years from what was proposed in the NPRM. Based on the NPRM comments described above, FHWA believes that 10 years is adequate to complete collection of the MIRE FDE as revised in this final rule in section 924.17.

As proposed in the NPRM, FHWA adopts new paragraph (c) requiring the SHSP to include actions that address how the SHSP emphasis area strategies will be implemented.

In paragraph (d), FHWA removes language regarding specific use of 23 U.S.C. 130(f) funds for railway-highway crossings, because reference to 23 U.S.C. 130 as a whole is more appropriate than specifying just section (f). The FHWA retains language about the Special Rule under 23 U.S.C. 130(e)(2) authorizing use of funds made available under 23 U.S.C. 130 for HSIP purposes if a State demonstrates it has met its needs for installation of railway-highway crossing protective devices to the satisfaction of the FHWA Division Administrator, in order to ensure that all States are aware of this provision.

As proposed in the NPRM, FHWA revises paragraph (g) [formerly paragraph (h)] regarding the Federal

share of the cost of a highway safety improvement project carried out with funds apportioned to a State under section 23 U.S.C. 104(b)(3) to reflect 23 U.S.C. 148(j). The GTMA expressed support for allowing 23 U.S.C. 120 and 130 reimbursement exceptions to be made available for the HSIP. The FHWA removes existing paragraphs (g) and (i) because the regulations are covered elsewhere and therefore do not need to be in this regulation. In particular, existing paragraph (g) is addressed in 23 CFR 450.216, which documents the requirements for the development and content of the STIP, including accounting for safety projects. In addition, existing paragraph (i) regarding implementation of safety projects in accordance with 23 CFR part 630, subpart A, applies to all Federal-aid projects, not just HSIP, and is therefore not necessary in the HSIP regulation.

The FHWA retains existing paragraphs (a), (e), and (f) with minimal editorial changes. The ATSSA expressed support for paragraph (e) that highway safety improvement projects be implemented with other funds and suggested that care should be taken to ensure that highway safety improvement projects funded with other programs are in addition to projects funded by the HSIP, not instead of. The ATSSA disagreed with the existing provision in paragraph (f) that again allows HSIP funds to be used for non-highway construction projects. These are existing provisions for which FHWA does not adopt any changes, except revisions to be consistent with OMB's revised administrative requirements and cost principles under 2 CFR part 200.

Section 924.13 Evaluation

The FHWA incorporates the following changes to paragraph (a) regarding the evaluation of the HSIP and SHSP:

The FHWA proposed to revise paragraph (a)(1) to clarify that the process is to analyze and assess the results achieved by highway safety improvement projects and the Railway-Highway Crossing Program, and not the HSIP as stated in the existing regulation. As stated in the NPRM, this change is consistent with the clarifications to Program Structure, as described in § 924.7. The Delaware and Virginia DOTs and GTMA expressed concern that the evaluation of individual projects could be time intensive without achieving the goal of understanding the overall impact of safety programs. The FHWA revises paragraph (a)(1) to reference the program of highway safety improvement projects, rather than individual projects. Texas DOT requested further details regarding the evaluation process. The FHWA will provide further clarification in guidance, but in general States are required to develop evaluation processes to best meet their individual program needs. Evaluation processes might include an inventory of previously implemented HSIP projects to support safety performance evaluations of individual projects, countermeasures, and the program as a whole. These processes might also specify specific methodologies and available resources to support evaluation. As stated in the NPRM, States currently evaluate highway safety improvement projects to support the evaluation of the HSIP; therefore this clarification does not require States to change their evaluation practices or the way they report their evaluations to FHWA. The FHWA also proposed to revise the outcome of this process to align with the performance targets established under 23 U.S.C. 150 as a requirement in section 1203 of MAP–21, which is the subject of a concurrent rulemaking for safety performance measures (FHWA–2013–0020 at 79 FR 13846). The FHWA revises the language in the final rule to reflect that contributions to improved safety outcomes are important, as well as attaining performance targets, based on a comment from AASHTO and several State DOTs to emphasize long-term, outcome-oriented focus as well as short-term targets. The process for evaluating achievement toward performance targets is described in more detail in the concurrent rulemaking for safety performance measures (FHWA–2013–0020 at 79 FR 13846).

The FHWA revises paragraph (a)(2), as proposed in the NPRM, to clarify that the evaluation of the SHSP is part of the regularly recurring update process that is already required under the current regulations. As part of this change, FHWA removes existing paragraph (a)(2)(i) because ensuring the accuracy and currency of the safety data is part of regular monitoring and tracking efforts. The FHWA revises new paragraph (a)(2)(i) [formerly paragraph (a)(2)(ii)] to reflect that evaluation of the SHSP includes confirming the validity of the emphasis areas and strategies based on analysis of current safety data.

Finally, in new paragraph (a)(2)(ii) [formerly paragraph (a)(2)(iii)] FHWA clarifies that the SHSP evaluation must identify issues related to the SHSP's implementation and progress that should be considered during each subsequent SHSP update. Subsequent SHSP updates will need to take into consideration the issues experienced in implementing the previous plan and identify methods to overcome those issues. Washington DOT commented that while it recognizes the value in reporting the lessons learned from implementation, it was unsure what was meant in the NPRM preamble by ''issues experienced'' and ''steps taken to overcome,'' and suggested that examples would provide greater clarity to what is meant by ''issues.'' The FHWA will provide further clarification in guidance, but an example of an ''issue experienced'' could be not meeting a SHSP goal or objective. For instance, if a SHSP emphasis area objective is not met, this may suggest a strategy is ineffective, or in some cases, the strategy may not have been implemented as planned. The State should try to identify why the objective was not met and consider alternatives in their SHSP update.

As proposed in the NPRM, FHWA incorporates a minor revision to paragraph (b)(1) to specify that safety data used in the planning process is to be updated based on the results of the evaluation under § 924.13(a)(1).

Finally, FHWA incorporates minor revisions to paragraph (c) to remove references to the STP and NHS [now NHPP], as well as 23 U.S.C. 402 since this is not the primary intent of these programs; removed the reference to 23 U.S.C. 105 since this program was repealed under MAP–21; and replaces the reference to 23 U.S.C. 104(f) with 104(d) to reflect the change in legislation numbering. There were no substantial comments to these revisions in the NPRM.

The FHWA revises the language in the final rule that clarifies that the use of these funding categories is subject to the individual program's eligibility criteria and the allocation of costs based on the benefit to each funding category to be consistent with OMB's revised administrative requirements and cost principles under 2 CFR part 200.

Section 924.15 Reporting

The FHWA removes the requirements for reporting on the HRRR program and the transparency report, as proposed in the NPRM, because MAP–21 removes these reporting requirements.

The FHWA revises the HSIP report requirements to specify what should be contained in these reports. In paragraph (a), FHWA requires that the report be submitted via the HSIP online reporting tool. The AASHTO, Arizona, Delaware, Georgia, Indiana, Michigan, New York, Oklahoma, Rhode Island, Utah, and Texas DOTs all suggested that improvements be made to the online reporting tool. While many supported

the principle of submitting reports online, several State DOTs expressed concern with the current functionality of the online reporting tool and suggested that it be improved before use of the tool was mandatory. The State DOTs indicated that there are usability issues with the current tool making it cumbersome to use. Some expressed concern that the tool is error-prone. In addition, States suggested that the security features be improved so that all reviewers and contributors could obtain access.

The FHWA understands that there have been difficulties with the online reporting tool and will continue to host user group discussions to identify and prioritize future enhancements. The FHWA will also continue training and technical assistance activities to support States HSIP reporting efforts. To respond to comments regarding access to and security of the online report tool, FHWA issued a Memorandum of User Profile and Access Control System (UPACS) Credentials on October 4, 2009,[13] to provide States with information regarding FHWA's implementation of e-Authentication as a part of the e-Government initiative to enable trust and confidence in e-Government transactions. In this memorandum, FHWA indicated that, in adherence to the DOT Information Assurance guidance, all State DOT users and MPO users accessing FHWA web-based applications would be required to obtain a Level-2 credential by April 1, 2010. The intent for submitting online reports is to ensure consistent reporting across all States and support national HSIP evaluation efforts. Forty-seven States currently use the HSIP online reporting tool to support the HSIP reporting efforts.

As proposed in the NPRM, FHWA replaces paragraphs (a)(1)(i) and (ii) in their entirety. In paragraph (a)(1)(i), FHWA indicates that the report needs to describe the structure of the HSIP, including how HSIP funds are administered in the State, and a summary of the methodology used to develop the programs and projects being implemented under the HSIP on all public roads. In paragraph (a)(1)(ii), FHWA requires that the report describe the process in implementing the highway safety improvement projects and compare the funds programmed in the State transportation improvement program for highway safety improvement projects with those obligated during the reporting year. The FHWA also requires that the report include a list of highway safety improvement projects (and how each relates to the State SHSP) that were obligated during the reporting year, including non-infrastructure projects. There were no substantive comments regarding these changes. The FHWA retains the reference to non-infrastructure projects here since States would still be required to report on HSIP expenditures for those non-infrastructure activities that remain on the inclusions list in 23 U.S.C. 148(a)(4)(B) (*e.g.* transportation safety planning; collection, analysis, and improvement of safety data).

The FHWA reorganizes new paragraph (a)(1)(iii) to emphasize the importance of long-term safety outcomes and to clarify safety performance target documentation requirements, consistent with comments received on the NPRM. The AASHTO, Vermont, and Arkansas DOTs suggested that FHWA emphasize the long-term outcome-oriented focus, in addition to annual targets. Virginia DOT commented that the language and requirements of regulations 23 CFR parts 490, 924, and 1200 should be consistent with respect to SHSP and HSIP/HSP target setting. The ATSSA suggested that it might be helpful to clarify the details expected related to safety performance targets. As a result, FHWA separates paragraph (a)(1)(iii) into three parts in the final rule. Paragraph (a)(1)(iii)(A) focuses on long-term safety outcomes and requires States to describe general highway safety trends. The FHWA moves all language regarding safety trends to paragraph (a)(1)(iii)(A) of the final rule in order to group similar information together. In addition, FHWA adds a requirement in paragraph (a)(1)(iii)(A) that general highway safety trends for the total number of fatalities and serious injuries for non-motorized users shall be provided in order to reflect the importance of safety for this user group. Paragraph (a)(1)(iii)(B) focuses on documenting the safety performance targets and clarifies that documentation of the safety performance targets shall include a discussion of the basis for each established target, how the established target supports the long-term goals in the SHSP, and for future HSIP reports, any reasons for differences in the actual outcomes and targets. As proposed in the NPRM for paragraph (a)(1)(iii), the safety performance targets required by 23 U.S.C. 150(d) shall be presented for all public roads by calendar year. Paragraph (a)(1)(iii)(C) focuses on the applicability of the special rules and does not change from the NPRM.

As proposed in the NPRM, paragraph (a)(1)(iv) requires that the report assess improvements accomplished by describing the effectiveness of highway safety improvement projects implemented under the HSIP. Virginia DOT suggested that this item describe the evaluation and reporting of individual projects and their type grouping based on outcome frequencies because, for example, intersection crash rates are calculated differently from road crash rates. The FHWA does not specify how the States assess or report on the effectiveness of highway safety improvements. States are required to have an evaluation process under 23 CFR 924.13, but have the flexibility to develop that process to best meet their needs.

Finally, as proposed in the NPRM, FHWA adds a new paragraph (a)(1)(v) to require that the HSIP report be compatible with the requirements of 29 U.S.C. 794(d) (Section 508 of the Rehabilitation Act) whereas previously only the transparency report was required to be compatible. Washington State DOT expressed concern that some States and local agencies may have difficulty in complying with 29 U.S.C. 794(d), Section 508, and that the burden of meeting this requirement may shift to the reporting agency. As a result, they suggested that FHWA consider providing examples of Section 508 compliant reports on the Web site. The HSIP reports are currently available on FHWA's Web site [14] and are 508 compliant. The HSIP MAP–21 Reporting Guidance [15] describes in detail the DOT Web site requirements. Also, reporting into the HSIP Online Reporting Tool meets all report requirements and DOT Web site requirements.

There are no changes to the existing regulation regarding the report describing progress to implement railway-highway crossing improvements.

Section 924.17 MIRE Fundamental Data Elements

In the NPRM, FHWA proposed to add a new § 924.17 containing the MIRE FDE for the collection of roadway data. The proposed section consisted of two tables of MIRE FDE listing the MIRE name and number for roadway segments, intersections, and

[13] The Memorandum of User Profile and Access Control System (UPACS) Credentials, issued October 4, 2009 can be viewed on the docket for this rulemaking.

[14] HSIP reports can be found at the following weblink: *http://safety.fhwa.dot.gov/hsip/reports.*

[15] HSIP MAP–21 Reporting Guidance can be found at the following weblink: *http://www.fhwa.dot.gov/map21/guidance/guidehsipreport.cfm.*

interchanges or ramps as appropriate. The tables differentiated the required MIRE FDE for roads with Average Annual Daily Traffic (AADT) greater than or equal to 400 vehicles per day (Table 1) and roads with AADT less than 400 vehicles per day (Table 2). The FHWA received a significant number of comments regarding the MIRE Fundamental Data Requirements, particularly related to the cost and burden of collecting the data, the required data elements, the requirement to collect data on low-volume roads, and the implementation timeline. Comments related to the implementation timeline are discussed in § 924.11 and comments regarding costs to collect and maintain the data, including comments on FHWA's cost assumptions, are discussed in the Regulatory Analysis section. The following paragraphs describe the remaining docket comments regarding the MIRE FDE. Following the discussion of the docket comments is a description of the changes FHWA adopted in this final rule to address the comments where appropriate.

Required Data Elements: North Dakota suggested that States should be allowed to determine what data is appropriate for their analysis and how it should be collected. Massachusetts DOT indicated that they had previously attempted a program to define and identify distinct intersections and interchanges and found it to be significantly more challenging than anticipated. Ohio DOT supported the data elements to classify and delineate roadway segments, elements to identify roadway physical characteristics, and elements to identify traffic volume, indicating that these requirements will ensure that States have the necessary data to better target roadway investments with the greatest potential to reduce crashes. Delaware DOT and Delaware Valley Regional Planning Commission also supported the required data elements. Arizona, New York, and Texas DOTs, as well as GTMA, suggested additional data elements may be useful such as median/shoulder width, horizontal curve data, speed limit, roadway paved width, median barrier type, shoulder texturing, and centerline texturing, while the League of American Bicyclists and California Walks and Massachusetts DOT suggested that bicycle and pedestrian count information or elements along roadways (bike lanes) or intersections (pedestrian accommodations) be included to help States address crashes associated with non-motorized users. The Virginia DOT echoed those comments, stating that presence/type of bicycle facility (40) and sidewalk presence (51) should be included as data elements that must be collected for urban roadways, stating that this is critical as non-motorized fatalities represent more than 10 percent of all traffic fatalities in Virginia and this information will be important to help analyze and identify safety needs of non-motorized users of the transportation system.

Local, low volume, and unpaved, gravel, and dirt roads: AASHTO, Arizona, Delaware, Montana, Texas, Utah, and Washington State DOTs expressed concern with the requirement to collect data on all public roads, particularly as it related to local, low volume, and unpaved, gravel, and dirt roads. Arizona DOT and GTMA expressed support for exempting unpaved, gravel, or dirt roads from MIRE FDE requirements. The Idaho, Montana, North Dakota, South Dakota, and Wyoming DOTs stated that there is not sufficient justification for rules that would require expenditure of considerable funds on data collection, particularly data regarding dirt and gravel roads and other low volume rural roads. They commented that scarce funds would be better directed to actual safety projects. Those DOTs suggested that it is unlikely that data elements related to unpaved roads are ''critical'' to overall safety management; therefore, FHWA should exclude them from the MIRE requirements. Arizona and Georgia DOTs and the Kansas Association of Counties suggested that States be allowed to develop their own methodologies to estimate AADT on local roads.

As discussed in the NPRM, FHWA includes this section on MIRE FDE to comply with section 1112 of MAP–21 that amends 23 U.S.C. 148 to require model inventory of roadway elements as part of data improvement. As mandated under 23 U.S.C. 148(f)(2), the Secretary of Transportation shall (1) establish a subset of the model inventory of roadway elements that are useful for the inventory of roadway safety; and (2) ensure that States adopt and use the subset to improve data collection. Considering this requirement in conjunction with the other requirements in 23 U.S.C. 148, FHWA cannot exempt certain roads entirely from the MIRE FDE requirements. Section 148(f)(1) of Title 23 U.S.C. defines a data improvement activity to include a project or activity to develop a basemap of all public roads, as well as safety data collection, including data identified as part of the model inventory of roadway elements, for creating or using on a highway basemap of all public roads in a State. In addition, there is frequent mention of safety data for all public roads throughout section 148 (*e.g.,* 23 U.S.C. 148(a)(2), (a)(9), (c)(2)). If all public roads are to be included in the identification and analysis of highway safety problems and opportunities as required by 23 U.S.C. 148(c)(2), FHWA believes that States should be able to at least locate all crashes on all public roads with an LRS. Lastly, the general purpose of the HSIP program is to achieve a significant reduction in traffic fatalities and serious injuries on *all public roads* (23 U.S.C. 148(b)(2)). Because the collection of these inventory elements ultimately supports implementation of the HSIP, it is important that MIRE FDE be collected for all of the roads eligible under the HSIP. To address comments raised during the rulemaking process, FHWA adds a definition for the term ''open to public travel'' for the purpose of MIRE FDE; changes the categorization of MIRE FDE from AADT to functional classification and surface type; further reduces the MIRE FDE for unpaved roads; and eliminates intersection data elements for local paved roads in the final rule. A brief description of each of these changes is provided below.

Categorize MIRE FDE requirements for paved roads based on functional classification and surface type, rather than AADT: Several commenters expressed concern about not having AADT (or a good method to estimate AADT) for all public roads, which would make it difficult to determine the applicability of the MIRE FDE requirements using the AADT thresholds proposed in the NPRM. Based on data from a sample of 3 States, FHWA estimates that roughly 72 percent (or 2,941,375 miles) of all public roads have an AADT of less than 400 and would therefore be subject to the FDE requirements proposed in Table 2 of the NPRM. In general, the roads with less than 400 AADT are lower functionally classified roads. According to FHWA *Highway Statistics,* there were 2,821,867 million miles of roads functionally classified as local roads in the United States in 2011 and 2012. This estimate equates very closely with the estimated miles of roadways subject to the NPRM Table 2 requirements, which were based on AADT estimates. Given the relatively low frequency that actual AADT counts are collected on low volume roads, FHWA changes the criteria for determining if a road is subject to MIRE FDE requirements to the functional classification of the roadway. Functional classification is the process

by which streets and highways are grouped into classes, or systems, according to the character of traffic service that they are intended to provide. There are three major highway functional classifications: arterial, collector, and local roads. Non-local paved roads (*e.g.,* arterials and collectors) would be subject to Table 1 in this final rule; whereas, local functionally classified roads would be subject to the Table 2 MIRE FDE requirements. As illustrated in the Table 3 below, this maintains the approximate proportion of roads that would fall into each category as compared to using a threshold of 400 AADT and will address nearly the same amount of fatalities. As an added advantage, this should be easier for the States to administer. The Table 1 and Table 2 MIRE FDE tables are suggested only for use on paved roads.

TABLE 3—COMPARISON OF MILEAGE AND % TOTAL FATALITIES ON <400 AADT ROADS AND ROADS CLASSIFIED AS LOCAL ROADS

Roadway classification	Mileage	% Total fatalities
<400 AADT *	72%	17.7
Local Road Functional Classification	69%	19.7

* Estimates are based on data from a sample of three States.

Create an Unpaved Roads Category: Several commenters expressed concerns with collecting the reduced set of the FDEs proposed in Table 2 of the NPRM on unpaved roads. Their concerns centered around the relative lack of a safety problem on these roads and the difficulty in collecting the information. The AASHTO and many State DOTs suggested that FHWA create a third roadway category for MIRE FDE data collection on unpaved roads. Based on 2011 and 2012 data, unpaved roads accounted for an average of 34.7 percent of U.S. roadway miles (1,395,888 miles).[16] Fatality data from the same years indicate that only 2.0 percent of fatalities (655) occurred on these unpaved roads.[17] Therefore, the FHWA creates a separate, reduced set of FDEs in Table 3 of the final rule that would be required for any unpaved public road. Table 3 MIRE FDE for unpaved roads in the final rule will require States to locate and identify these roads within the State's LRS per HPMS and to provide the functional classification and roadway ownership, which was required in MAP–21. While the FAST Act includes a provision that would allow States to elect not to collect fundamental data elements for the model inventory of roadway elements on public roads that are gravel roads or otherwise unpaved, the MIRE FDE as defined in this regulation are the minimum subset of the roadway and traffic data elements from FHWA's MIRE that are used to support a State's data-driven safety program. States will still be expected to geospatially locate crashes and the reduced FDEs to these unpaved roadway segments to monitor their safety if they intend to use HSIP funds on these roads.

Eliminate Intersection FDEs for Local Roads: Some commenters suggested that the burden to collect local road intersection data was greater than the benefit, since they would likely not use the predictive analysis methods for these facilities. From 2011–2012 there was an average of 1,117 intersection or intersection-related fatalities on roads functionally classified as ''local.'' [18] This constitutes approximately 3.4 percent of the annual average total (32,739) for all fatalities during this time period. Network screening for these low traffic volume roads can be performed using system-wide or corridor level analyses that combine (but do not distinguish) roadway segment, intersection, and ramp crashes. Corridor-level network screening would identify ''intersection'' hot spots, as well, and then an agency could collect specific roadway data relative to that location as needed. Therefore, given the ability to identify intersection problems through corridor-level analysis, FHWA eliminates the MIRE FDE requirement for local intersections, reducing the number of required data elements in Table 2 of the final rule from 14 to 9.

The proposed changes discussed above will significantly reduce the data collection burden on States as summarized in Table 4 below. The number of miles of non-local roads for which Table 1 in the final rule applies is approximately 8,000 miles less than proposed in the NPRM. Table 2 of the final rule applies to nearly 1.5 million fewer miles of roads and the number of data elements for those roadway miles is reduced from 14 elements to 9 elements. Table 3, which was not included in the NPRM, includes approximately 1.4 million miles of unpaved roads with only 5 data elements, comprised of name, classification, ownership and length, which does not require additional collection of data. As a result, the final rule includes three tables: Table 1—MIRE FDE for Non-Local (based on functional classification) Paved Roads, Table 2—MIRE FDE for Local (based on functional classification) Paved Roads, and Table 3—MIRE FDE for Unpaved Roads. The FHWA incorporates these changes to address comments regarding the need to reduce the burden on States while maintaining the minimum roadway data needed to make better safety investment decisions.

TABLE 4—COMPARISON OF NPRM AND FINAL RULE—REQUIRED MIRE FDE AND ROADWAY MILEAGE

Variable	Rulemaking phase	Table 1	Table 2	Table 3
Table Categorization	NPRM	>400 AADT	<400 AADT	N/A.
	Final Rule	Non-local Paved Roads	Local Paved Roads	Unpaved Roads.
MIRE FDE elements	NRPM	37	14	N/A.
	Final Rule	37	9	5.
Roadway Mileage	NPRM	1,143,868	2,941,375	N/A.

[16] *http://www.rita.dot.gov/bts/sites/rita.dot.gov.bts/files/publications/national_transportation_statistics/html/table_01_04.html.*

[17] *http://www.nhtsa.gov/FARS.*

[18] *http://www.nhtsa.gov/FARS.*

TABLE 4—COMPARISON OF NPRM AND FINAL RULE—REQUIRED MIRE FDE AND ROADWAY MILEAGE—Continued

Variable	Rulemaking phase	Table 1	Table 2	Table 3
	Final Rule	1,135,751	1,553,604	1,395,888.
Summary of changes from NPRM to Final Rule		Changed categorization from >400 AADT to Non-Local Paved Roads.	Changed categorization from <400 AADT to local paved roads and eliminated intersection elements.	Created a separate category of MIRE FDE for unpaved roads.

To address the comments suggesting additional data elements, FHWA suggests that the MIRE FDE included in this final rule are the minimum roadway elements required to conduct system-wide network screening. States may choose to collect additional elements as needed to support system-wide or site-specific analysis. In addition, FHWA does not require a specific method for traffic volume data collection. Agencies may use a methodology that best meets the needs of the State.

Rulemaking Analysis and Notices

The FHWA considered all comments received before the close of business on the comment closing date indicated above, and the comments are available for examination in the docket (FHWA–2013–0019) at Regulations.gov. The FHWA also considered comments received after the comment closing date and filed in the docket prior to the publication of this final rule. The FHWA also considered the HSIP provisions of the FAST Act in the development of this final rule. The FHWA finds good cause under 5 U.S.C. 553(b)(3)(B) to incorporate the provisions of the FAST Act without the need for further notice and comment. The FHWA believes additional public comment would be unnecessary as the FAST Act provisions are not discretionary and update the regulation to reflect current law. Specifically, FHWA removes the provision that required FHWA to assess the extent to which other eligible funding programs are programmed for non-infrastructure projects prior to using HSIP funds for these purposes in this final rule since FAST limited eligibility to those items specifically listed in 23 U.S.C. 148(a)(4)(B).

Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures

The FHWA has determined that this proposed action is a significant regulatory action within the meaning of Executive Order 12866 and within the meaning of DOT regulatory policies and procedures due to the significant public interest in regulations related to traffic safety. It is anticipated that the economic impact of this rulemaking will not be economically significant within the meaning of Executive Order 12866 as discussed below. This action complies with Executive Orders 12866 and 13563 to improve regulation.

While MAP–21 resulted in requiring the Secretary to establish three requirements (*i.e.,* MIRE FDE, SHSP update cycle and HSIP report content and schedule), FHWA based the economic analysis in the NPRM on the costs associated with the MIRE FDE only. Because States are already required to update their SHSP on a regular basis, and the proposal for States to update their SHSP at least every 5 years is consistent with current practice, FHWA expects any costs associated with updating the SHSP will be minimal. Alaska, Delaware, Indiana, Maine, North Carolina, and Washington State DOTs agreed that at least a 5-year SHSP update cycle is appropriate and will not create an undue financial burden on the State. Therefore, this assumption remains valid. The FHWA did not propose any changes to the report schedule or frequency in the NPRM. There were only minor changes to the report content related to safety performance targets required under 23 U.S.C. 150(d) and FHWA believed that any associated costs would be offset by the elimination of the transparency report requirements. Further, the actual cost to establish the safety performance target is accounted for in the concurrent rulemaking for safety performance measures (Docket number FHWA–13–0020). There were no comments related to the HSIP report content or associated costs. Since the SHSP update schedule and report content and schedule requirements do not change from the NPRM to the final rule and the comments did not suggest otherwise, the economic analysis for the final rule is based on the MIRE FDE costs only.

The MIRE FDE costs in the NPRM were based on the ''MIRE Fundamental Data Elements Cost Estimation Report'' dated March 2013.[19] The cost estimates developed as part of that report reflected the additional costs that a State would incur based on what is not being collected through HPMS or not already being collected for other purposes. The cost estimate used in the NRPM did not include the cost of analyzing the MIRE FDE and performance measure data. The FHWA received comments from AASHTO, California, Georgia, Idaho, Maine, Massachusetts, Michigan, Missouri, Montana, North Carolina, North Dakota, Pennsylvania, Rhode Island, South Dakota, Texas, Washington State, and Wyoming DOTs as well as the CSAC, Shasta (California) Regional Transportation Agency, and the Mid-America Regional Council MPO suggesting that the costs for collecting the required data would place a burden on their agencies. While many of the commenters expressed general support for the need for data to enhance safety programs, Massachusetts, Montana, and Washington State DOT, commented that the expenditures in collecting this data at the statewide level for all public roads would not be offset by the benefits and would divert funding away from other critical elements of their programs. Arizona DOT suggested that there is potentially more benefit by implementing systemic safety measures on many of the low volume public roads than in MIRE FDE data collection. Arizona, California, Illinois, Indiana, Kentucky, Maine, Massachusetts, Michigan, New York, Rhode Island, Vermont, and Wyoming DOTs all suggested that the costs to collect MIRE FDE would be extensive and likely exceed the cost estimated by FHWA. However, only Washington State DOT provided actual cost information. The cost information the commenters provided was used as additional input to the revised ''MIRE Fundamental Data

[19] ''MIRE Fundamental Data Element Cost-Benefit Estimation,'' FHWA Report number: FHWA–SA–13–018, published March 2013 is available on the docket for this rulemaking and at the following Internet Web site: *http://safety.fhwa.fhwa.dot.gov/rsdp/downloads/mire_fde_%20cbe_finalreport_032913.pdf.*

Elements Cost-Benefit Estimation Report'' dated March 2015.[20]

Based on the comments received in the NPRM, FHWA updated the cost-benefit estimation to reflect: (1) the revisions to the category of roadways and the respective MIRE FDEs to be collected on those roadways, (2) a greater period of time for States to collect the information on those three categories of roadway, and (3) additional cost considerations (*e.g.,* formatting and analyzing MIRE FDE data). The ''MIRE Fundamental Data Elements Cost-Benefit Estimation'' report dated March 2015,[21] reflects these updates and estimates the potential cost to States in developing a statewide LRS and collecting the MIRE FDE for the purposes of implementing the HSIP on all public roadways. The cost estimates developed as part of this report reflect the additional costs that a State would incur based on what is not being collected through the HPMS or not already being collected through other efforts. The MIRE FDE Cost-Benefit Estimation Report reflects the total cost for States to collect the MIRE FDE on all public roads, including unpaved roads. While the FAST Act includes a provision that would allow States to elect not to collect fundamental data elements for the model inventory of roadway elements on public roads that are gravel roads or otherwise unpaved, this report includes the cost to collect the MIRE FDE on unpaved roads because they would still be required to meet the full needs of the States' HSIP.

With the passage of MAP–21, States are required to collect data on all public roads, including non-Federal-aid roads. To initiate this process, States need to develop a common statewide relational LRS on all public roads that is linkable with crash data, as required by 23 CFR 1.5 and described in recent FHWA guidance [22] issued on August 7, 2012. Based on this criterion, the report estimated that the cost of developing a statewide LRS beginning in June 2015 and concluding in June 2016 would be $32,897,622 nationally over this time period. This would equate to a cost of approximately $645,051 for each State and the District of Columbia to develop a relational LRS over the 12-month period. The data collection for an average State is $1,546,169 for the initial collection and $5,235,097 for the management, administration, maintenance and miscellaneous costs over the analysis period of 2015–2035 (in 2014 U.S. dollars). These are average costs on a per State basis discounted at 7 percent. As such, across the 50 States and the District of Columbia, it is possible that the aggregate cost for initial data collection would be approximately $79 million over 10 years and the total maintenance, management, administration and miscellaneous costs would approach $267 million over the 20-year analysis period.

Table 5 displays the comparison of estimated total national costs between the estimates provided in the NPRM and updated based on the revised analysis for the final rule. The analysis period for the NPRM assumed a 16-year analysis period (2013–2029). Based on the comments received, FHWA revised the data collection time period and extended the analysis over a 20-year period (2015–2035). Even though States are required to collect fewer data elements as compared to those proposed in the NPRM, the MIRE FDE costs for the final rule are higher than the NPRM, as illustrated in Table 5 below. Based on the comments received, FHWA revised the LRS cost to include a sliding scale based on roadway mileage, revised the baseline data collection assumptions to reflect the most recent HPMS data, added costs to develop a model to estimate traffic volumes, added costs for data quality assurance and control, and added costs for other miscellaneous activities including developing an implementation plan, using a local partner liaison, formatting and analyzing data, and supporting desktop and Web applications. In addition, baseline costs were inflated to 2014 dollars and the analysis period was extended from 16 to 20 years to accommodate the extended timeframe for data collection. The FHWA believes that this is a more accurate representation of the costs States can expect to incur to successfully collect and use the MIRE FDE.

TABLE 5—COMPARISON OF NPRM AND FINAL RULE TOTAL ESTIMATED NATIONAL COSTS FOR MIRE FDE

[2014 dollars]

Cost components	Total national costs (2014 dollars)	
	NRPM * undiscounted	Final rule ** undiscounted
Cost of Section 924.17:		
Linear Referencing System (LRS)	$17,614,763	$34,010,102
Initial Data Collection	54,330,783	113,395,680
Roadway Segments	38,767,525	68,879,288
Intersections	8,465,017	2,161,256
Interchange/Ramp locations	850,872	1,057,984
Volume Collection	6,247,369	41,297,152
Maintenance of data system	158,320,508	65,683,740
Management & administration of data system	3,524,952	6,410,685
Miscellaneous Costs	N/A	439,585,598
Total Cost	233,791,005	659,085,805

* NRPM analysis period—2013 through 2029.
** Final rule analysis period—2015 through 2035.

The MAP–21 and FAST provides States the framework to achieve significant reductions in traffic fatalities and serious injuries on all public roads. Furthermore, MAP–21 required States to report on their safety performance in

[20] ''MIRE Fundamental Data Element Cost-Benefit Estimation,'' dated May 13, 2015, is available on the docket for this rulemaking.

[21] Ibid.

[22] Guidance Memorandum on Geospatial Network for all Public Roads, issued August 7, 2012, can be viewed at the following Internet Web site: *http://www.fhwa.dot.gov/policyinformation/hpms/arnold.pdf.*

relation to the national safety performance measures in 23 U.S.C. 150(e). The collection of the MIRE FDE information will enhance States ability to:

- Develop quantifiable annual performance targets.
- Develop a strategy for identifying and programming projects and activities that allow the State to meet the performance targets.
- Conduct data analyses supporting the identification and evaluation of proposed countermeasures.

The benefits of this rulemaking can have a significant impact on improving safety on our Nation's roads, because collecting this roadway and traffic data and integrating those data into the safety analysis process will improve an agency's ability to locate problem areas and apply appropriate countermeasures, hence improving safety. More effective safety investments yield more lives saved and injuries avoided per dollar invested.

The benefits of this rule would be the monetized value of the crashes, fatalities, serious injuries, and property damage avoided by the projects identified and implemented using the proposed MIRE FDE minus the forgone monetized value of the crashes, fatalities, serious injuries, and property damage avoided by the projects identified and implemented using the current data and methods used by the States to allocate safety resources. The FHWA did not endeavor to estimate the benefits in this way for the NPRM, and did not receive any comments on how such benefits could be estimated. Therefore, FHWA continued use of a break-even analysis for the final rule cost estimate.

The ''MIRE Fundamental Data Elements Cost-Benefit Estimation'' [23] dated May 13, 2013, report calculated the benefits by estimating the reduction in fatalities and injuries needed to exceed a 1:1 ratio and a 10:1 ratio of benefits to costs. The 10:1 ratio was added following the NPRM since North Carolina DOT commented that the break-even analysis using a 1:1 or 2:1 ratio was too low to show the benefits of the added data collection efforts. Table 6 summarizes these needed benefits. The report used the 2014 comprehensive cost of a fatality of $9,300,000 and $109,800 for an injury, based on the value of a statistical life.[24] The injury costs used in the report reflects the average injury costs based on the national distribution of injuries in the General Estimate System (GES) using a Maximum Abbreviated Injury Scale.

TABLE 6—ESTIMATED BENEFITS NEEDED TO ACHIEVE COST-BENEFIT RATIOS OF 1:1 AND 10:1

[2015–2035 Analysis period, discounted at 7%]

Benefits	Number of lives saved/injuries avoided nationally	
	Benefit/Cost ratio of 1:1	Benefit/Cost ratio of 10:1
# of lives saved (fatalities)	76	763
# of injuries avoided	5,020	50,201

The report estimates that a reduction of 1 fatality and 98 injuries by each State over the 2015–2035 analysis period would be needed to result in a benefit/cost ratio of 1:1. To achieve a benefit/cost ratio of 10:1, each State would need to reduce fatalities by 15 and injuries by 984 over the same analysis period. The experiences to date in States that are already collecting and using roadway data comparable to the MIRE FDE suggests there is a very high likelihood that the benefits of collecting and using the proposed MIRE FDE will outweigh the costs.

For example, one study on the effectiveness of the HSIP found: [25]

The magnitude of States' fatal crash reduction was highly associated with the years of available crash data, prioritizing method, and use of roadway inventory data. Moreover, States that prioritized hazardous sites by using more detailed roadway inventory data and the empirical Bayes method had the greatest reductions; all of those States relied heavily on the quality of crash data system.''

For example, this study cites Colorado's safety improvements, noting ''Deployment of advanced methods on all projects and acquisition of high-quality data may explain why Colorado outperformed the rest of the country in reduction of fatal crashes.'' [26] Illinois was also high on this study's list of States with the highest percentage reduction in fatalities. In a case study of Illinois' use of AASHTO Highway Safety Manual methods, an Illinois DOT official noted that use of these methods ''requires additional roadway data, but has improved the sophistication of safety analyses in Illinois resulting in better decisions to allocate limited safety resources.'' [27] Another case study of Ohio's adoption of a tool to apply the roadway safety management methods described in the AASHTO Highway Safety Manual concluded, ''In Ohio, one of the benefits of applying various HSM screening methods was identifying ways to overcome some of the limitations of existing practices. For example, the previous mainframe methodology typically over-emphasized urban ''sites of promise''—locations identified for further investigation and potential countermeasure implementation. These locations were usually in the largest urban areas, often with a high frequency of crashes that were low in severity. Now, several screening methods can be used in the network screening process resulting in greater identification of rural corridors and projects. This identification enables Ohio's safety program to address more factors contributing to fatal and injury crashes across the State, instead of being limited to high-crash locations in urban areas, where crashes often result in minor or no injuries.'' [28] Another document quantified these benefits, indicating that the number of fatalities per identified

[23] ''MIRE Fundamental Data Elements Cost-Benefit Estimation,'' dated May 13, 2015, is available on the docket for this rulemaking.

[24] ''Guidance on Treatment of the Economic Value of a Statistical Life (VSL) in U.S. Department of Transportation Analyses, 2014 Update. *http://www.dot.gov/sites/dot.gov/files/docs/VSL_Guidance_2014.pdf.*

[25] Wu, K.-F., Himes, S.C., and Pietrucha, M.T., ''Evaluation of Effectiveness of the Federal Highway Safety Improvement Program,'' Transportation Research Record, Vol. 2318, pp. 23–34, 2013.

[26] Ibid.

[27] Highway Safety Manual Case Study 4: Development of Safety Performance Functions for Network Screening in Illinois. *http://safety.fhwa.dot.gov/hsm/casestudies/il_cstd.cfm.*

[28] Highway Safety Manual Case Study 2: Implementing a New Roadway Safety Management Process with SafetyAnalyst in Ohio. *http://safety.fhwa.dot.gov/hsm/casestudies/oh_cstd.cfm.*

mile is 67 percent higher, the number of serious injuries per mile is 151 percent higher, and the number of total crashes is 105 percent higher with these new methods than with their former methods.[29] In summary, all three States experienced benefits to the effectiveness of safety investment decisionmaking through the use of methods that included roadway data akin to the MIRE FDE and crash data in their highway safety analyses.

Between 2008 and 2012, on average 35,157 people died in motor vehicle traffic crashes in the United States, and an estimated 2.23 million people were injured.[30] [31] The decrease in fatalities needed to achieve a 1:1 cost-benefit ratio would represent a 0.2 percent reduction of annual fatalities using the average 2008–2012 statistics. These statistics and the experiences to date in States already collecting and using roadway data comparable to MIRE FDE as cited above suggest that the benefits of collecting and using the MIRE will far outweigh the costs. For example, if each State and the District of Columbia reduced fatalities by two each because of improved decisionmaking due to enhanced data capabilities, the economic impact (savings) would approach $938,400,000. The FHWA believes that the MIRE FDE, in combination with crash data, will support more cost-effective safety investment decisions and ultimately yield greater reductions in fatalities and serious injuries per dollar invested.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (RFA) (Pub. L. 96–354, 5 U.S.C. 601–612), FHWA has evaluated the effects of these changes on small entities and anticipates that this action will not have a significant economic impact on a substantial number of small entities. The final rule addresses the HSIP. As such, it affects only States, and States are not included in the definition of small entity set forth in 5 U.S.C. 601. Therefore, the RFA does not apply, and I hereby certify that this action would not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

The FHWA has evaluated this final rule for unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 109 Stat. 48, March 22, 1995). As part of this evaluation, FHWA has determined that this action will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of greater than $128.1 million or more in any one year (2 U.S.C. 1532). The FHWA bases their analysis on the ''MIRE Fundamental Data Elements Cost-Benefit Estimation'' report.[32] The objective of this report was to estimate the potential cost to States in developing a statewide LRS and collecting the MIRE FDE for the purposes of implementing the HSIP on all public roadways. The cost estimates developed as part of this report reflect the additional costs that a State would incur based on what is not being collected through the HPMS, or not already being collected through other efforts. The funds used to establish a data collection system, collect initial data, and maintain annual data collection are reimbursable to the States through the HSIP program.

Further, the definition of ''Federal Mandate'' in the Unfunded Mandate Reform Act excludes financial assistance of the type in which State, local, or tribal governments have authority to adjust their participation in the program in accordance with changes made in the program by the Federal Government. The Federal-aid highway program permits this type of flexibility.

Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 dated August 4, 1999. The FHWA has determined that this action would not have sufficient federalism implications to warrant the preparation of a federalism assessment. The FHWA has also determined that this rulemaking would not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions.

Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this action under Executive Order 13175, dated November 6, 2000, and believes that it would not have substantial direct effects on one or more Indian tribes; would not impose substantial direct compliance costs on Indian tribal governments; and would not preempt tribal law. Therefore, a tribal summary impact statement is not required.

Executive Order 13211 (Energy Effects)

The FHWA has analyzed this action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The FHWA has determined that it is not a significant energy action under that order because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects under Executive Order 13211 is not required.

Executive Order 12372 (Intergovernmental Review) Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction

The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the OMB prior to conducting or sponsoring a ''collection of information.'' The FHWA has OMB approval under ''Highway Safety Improvement Programs'' (OMB Control No: 2125–0025) to collect the information required by State's annual HSIP reports. The FHWA recently received an extension to the Information Collection Request, with a new expiration date of May 31, 2017,[33] in order to reflect the MAP–21 requirements reflected in this final rule.

Executive Order 12988 (Civil Justice Reform)

This action meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

The FHWA has analyzed this action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. The FHWA certifies that this

[29] Hughes, J. and Council, F.M., ''How Good Data Lead to Better Safety Decisions,'' *ITE Journal,* April 2012.

[30] National Highway Traffic Safety Administration—Fatality Analysis Reporting System: can be accessed at the following Internet Web site: *http://www.nhtsa.gov/FARS.*

[31] National Highway Traffic Safety Administration—National Automotive Sampling System (NASS) General Estimates System (GES): can be accessed at the following Internet Web site: *http://www.nhtsa.gov/NASS.*

[32] ''MIRE Fundamental Data Elements Cost-Benefit Estimation,'' dated May 13, 2015, is available on the docket for this rulemaking.

[33] The Information Collection Request can be viewed at the following weblink: *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201308-2125-002.*

action would not concern an environmental risk to health or safety that might disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

The FHWA does not anticipate that this action would affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) and has determined that it would not have any effect on the quality of the environment and meets the criteria for the categorical exclusion at 23 CFR 771.117(c)(20).

Executive Order 12898 (Environmental Justice)

Executive Order 12898 requires that each Federal agency make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionally high and adverse human health or environmental effects of its programs, policies, and activities on minorities and low-income populations. The FHWA has determined that this rule does not raise and environmental justice issues.

Regulation Identifier Number

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 924

Highway safety, Highways and roads, Motor vehicles, Railroads, Railroad safety, Safety, Transportation.

Issued on: March 2, 2016.

Gregory G. Nadeau,

Acting Administrator, Federal Highway Administration.

■ In consideration of the foregoing, the FHWA revises title 23, Code of Federal Regulations, part 924 to read as follows:

PART 924—HIGHWAY SAFETY IMPROVEMENT PROGRAM

Sec.

924.1 Purpose.
924.3 Definitions.
924.5 Policy.
924.7 Program structure.
924.9 Planning.
924.11 Implementation.
924.13 Evaluation.
924.15 Reporting.
924.17 MIRE fundamental data elements.

Authority: 23 U.S.C. 104(b)(3), 130, 148, 150, and 315; 49 CFR 1.85.

§ 924.1 Purpose.

The purpose of this regulation is to prescribe requirements for the development, implementation, and evaluation of a highway safety improvement program (HSIP) in each State.

§ 924.3 Definitions.

Unless otherwise specified in this part, the definitions in 23 U.S.C. 101(a) are applicable to this part. In addition, the following definitions apply:

Hazard index formula means any safety or crash prediction formula used for determining the relative risk at railway-highway crossings, taking into consideration weighted factors, and severity of crashes.

Highway means:

(1) A road, street, or parkway and all associated elements such as a right-of-way, bridge, railway-highway crossing, tunnel, drainage structure, sign, markings, guardrail, protective structure, etc.;

(2) A roadway facility as may be required by the United States Customs and Immigration Services in connection with the operation of an international bridge or tunnel; and

(3) A facility that serves pedestrians and bicyclists pursuant to 23 U.S.C. 148(e)(1)(A).

Highway Safety Improvement Program (HSIP) means a State safety program with the purpose to reduce fatalities and serious injuries on all public roads through the implementation of the provisions of 23 U.S.C. 130, 148, and 150, including the development of a data-driven Strategic Highway Safety Plan (SHSP), Railway-Highway Crossings Program, and program of highway safety improvement projects.

Highway safety improvement project means strategies, activities, or projects on a public road that are consistent with a State SHSP and that either correct or improve a hazardous road segment, location, or feature, or addresses a highway safety problem. Examples of projects are described in 23 U.S.C. 148(a).

MIRE Fundamental data elements mean the minimum subset of the roadway and traffic data elements from the FHWA's Model Inventory of Roadway Elements (MIRE) that are used to support a State's data-driven safety program.

Public railway-highway crossing means a railway-highway crossing where the roadway (including associated sidewalks, pathways, and shared use paths) is under the jurisdiction of and maintained by a public authority and open to public travel, including non-motorized users. All roadway approaches must be under the jurisdiction of a public roadway authority, and no roadway approach may be on private property.

Public road means any highway, road, or street under the jurisdiction of and maintained by a public authority and open to public travel, including non-State-owned public roads and roads on tribal land.

Reporting year means a 1-year period defined by the State, unless noted otherwise in this section. It may be the Federal fiscal year, State fiscal year, or calendar year.

Railway-highway crossing protective devices means those traffic control devices in the Manual on Uniform Traffic Control Devices (MUTCD) specified for use at such crossings; and system components associated with such traffic control devices, such as track circuit improvements and interconnections with highway traffic signals.

Road safety audit means a formal safety performance examination of an existing or future road or intersection by an independent multidisciplinary audit team for improving road safety for all users.

Safety data includes, but are not limited to, crash, roadway characteristics, and traffic data on all public roads. For railway-highway crossings, safety data also includes the characteristics of highway and train traffic, licensing, and vehicle data.

Safety stakeholder means, but is not limited to:

(1) A highway safety representative of the Governor of the State;

(2) Regional transportation planning organizations and metropolitan planning organizations, if any;

(3) Representatives of major modes of transportation;

(4) State and local traffic enforcement officials;

(5) A highway-rail grade crossing safety representative of the Governor of the State;

(6) Representatives conducting a motor carrier safety program under section 31102, 31106, or 31309 of title 49, U.S.C.;

(7) Motor vehicle administration agencies;

(8) County transportation officials;

(9) State representatives of non-motorized users; and

(10) Other Federal, State, tribal, and local safety stakeholders.

Spot safety improvement means an improvement or set of improvements that is implemented at a specific location on the basis of location-specific crash experience or other data-driven means.

Strategic highway safety plan (SHSP) means a comprehensive, multiyear, data-driven plan developed by a State department of transportation (DOT) in accordance with 23 U.S.C. 148.

Systemic safety improvement means a proven safety countermeasure(s) that is widely implemented based on high-risk roadway features that are correlated with particular severe crash types.

§ 924.5 Policy.

(a) Each State shall develop, implement, and evaluate on an annual basis a HSIP that has the objective to significantly reduce fatalities and serious injuries resulting from crashes on all public roads.

(b) HSIP funds shall be used for highway safety improvement projects that are consistent with the State's SHSP. HSIP funds should be used to maximize opportunities to advance highway safety improvement projects that have the greatest potential to reduce the State's roadway fatalities and serious injuries.

(c) Safety improvements should also be incorporated into projects funded by other Federal-aid programs, such as the National Highway Performance Program (NHPP) and the Surface Transportation Program (STP). Safety improvements that are provided as part of a broader Federal-aid project should be funded from the same source as the broader project.

(d) Eligibility for Federal funding of projects for traffic control devices under this part is subject to a State or local/tribal jurisdiction's substantial conformance with the National MUTCD or FHWA-approved State MUTCDs and supplements in accordance with part 655, subpart F, of this chapter.

§ 924.7 Program structure.

(a) The HSIP shall include:

(1) A SHSP;

(2) A Railway-Highway Crossing Program; and

(3) A program of highway safety improvement projects.

(b) The HSIP shall address all public roads in the State and include separate processes for the planning, implementation, and evaluation of the HSIP components described in paragraph (a) of this section. These processes shall be developed by the States in cooperation with the FHWA Division Administrator in accordance with this section and the requirements of 23 U.S.C. 148. Where appropriate, the processes shall be developed in consultation with other safety stakeholders and officials of the various units of local and Tribal governments.

§ 924.9 Planning.

(a) The HSIP planning process shall incorporate:

(1) A process for collecting and maintaining safety data on all public roads. Roadway data shall include, at a minimum, the MIRE Fundamental Data Elements as established in § 924.17. Railway-highway crossing data shall include all fields from the U.S. DOT National Highway-Rail Crossing Inventory.

(2) A process for advancing the State's capabilities for safety data collection and analysis by improving the timeliness, accuracy, completeness, uniformity, integration, and accessibility of their safety data on all public roads.

(3) A process for updating the SHSP that identifies and analyzes highway safety problems and opportunities in accordance with 23 U.S.C.148. A SHSP update shall:

(i) Be completed no later than 5 years from the date of the previous approved version;

(ii) Be developed by the State DOT in consultation with safety stakeholders;

(iii) Provide a detailed description of the update process. The update process must be approved by the FHWA Division Administrator;

(iv) Be approved by the Governor of the State or a responsible State agency official that is delegated by the Governor;

(v) Adopt performance-based goals that:

(A) Are consistent with safety performance measures established by FHWA in accordance with 23 U.S.C. 150; and

(B) Are coordinated with other State highway safety programs;

(vi) Analyze and make effective use of safety data to address safety problems and opportunities on all public roads and for all road users;

(vii) Identify key emphasis areas and strategies that have the greatest potential to reduce highway fatalities and serious injuries and focus resources on areas of greatest need;

(viii) Address engineering, management, operations, education, enforcement, and emergency services elements of highway safety as key features when determining SHSP strategies;

(ix) Consider the results of State, regional, local, and tribal transportation and highway safety planning processes and demonstrate mutual consultation among partners in the development of transportation safety plans;

(x) Provide strategic direction for other State and local/tribal transportation plans, such as the HSIP, the Highway Safety Plan, and the Commercial Vehicle Safety Plan; and

(xi) Describe the process and potential resources for implementing strategies in the emphasis areas.

(4) A process for analyzing safety data to:

(i) Develop a program of highway safety improvement projects, in accordance with 23 U.S.C. 148(c)(2), to reduce fatalities and serious injuries on all public roads through the implementation of a comprehensive program of systemic and spot safety improvement projects.

(ii) Develop a Railway-Highway Crossings program that:

(A) Considers the relative risk of public railway-highway crossings based on a hazard index formula;

(B) Includes onsite inspection of public railway-highway crossings; and

(C) Results in a program of highway safety improvement projects at railway-highway crossings giving special emphasis to the statutory requirement that all public crossings be provided with standard signing and markings.

(5) A process for conducting engineering studies (such as road safety audits and other safety assessments or reviews) to develop highway safety improvement projects.

(6) A process for establishing priorities for implementing highway safety improvement projects that considers:

(i) The potential reduction in fatalities and serious injuries;

(ii) The cost effectiveness of the projects and the resources available; and

(iii) The priorities in the SHSP.

(b) The planning process of the HSIP may be financed with funds made available through 23 U.S.C. 104(b)(3) and 505, and, where applicable in metropolitan planning areas, 23 U.S.C. 104(d). The eligible use of the program funding categories listed for HSIP planning efforts is subject to that program's eligibility requirements and cost allocation procedures as per 2 CFR part 200.

(c) Highway safety improvement projects, including non-infrastructure safety projects, to be funded under 23 U.S.C. 104(b)(3) shall be carried out as part of the Statewide and Metropolitan Transportation Planning Process consistent with the requirements of 23

U.S.C. 134 and 135 and 23 CFR part 450.

§ 924.11 Implementation.

(a) The HSIP shall be implemented in accordance with the requirements of § 924.9.

(b) States shall incorporate specific quantifiable and measurable anticipated improvements for the collection of MIRE fundamental data elements into their Traffic Records Strategic Plan by July 1, 2017. States shall have access to a complete collection of the MIRE fundamental data elements on all public roads by September 30, 2026.

(c) The SHSP shall include or be accompanied by actions that address how the SHSP emphasis area strategies will be implemented.

(d) Funds set-aside for the Railway-Highway Crossings Program under 23 U.S.C. 130 shall be used to implement railway-highway crossing safety projects on any public road. If a State demonstrates that it has met its needs for the installation of railway-highway crossing protective devices to the satisfaction of the FHWA Division Administrator, the State may use funds made available under 23 U.S.C. 130 for other types of highway safety improvement projects pursuant to the special rule in 23 U.S.C. 130(e)(2).

(e) Highway safety improvement projects may also be implemented with other funds apportioned under 23 U.S.C. 104(b) subject to the eligibility requirements applicable to each program.

(f) Award of contracts for highway safety improvement projects shall be in accordance with 23 CFR parts 635 and 636, where applicable, for highway construction projects, 23 CFR part 172 for engineering and design services contracts related to highway construction projects, or 2 CFR part 200 for non-highway construction projects.

(g) Except as provided in 23 U.S.C. 120 and 130, the Federal share of the cost of a highway safety improvement project carried out with funds apportioned to a State under 23 U.S.C. 104(b)(3) shall be 90 percent.

§ 924.13 Evaluation.

(a) The HSIP evaluation process shall include:

(1) A process to analyze and assess the results achieved by the program of highway safety improvement projects in terms of contributions to improved safety outcomes and the attainment of safety performance targets established as per 23 U.S.C. 150.

(2) An evaluation of the SHSP as part of the regularly recurring update process to:

(i) Confirm the validity of the emphasis areas and strategies based on analysis of current safety data; and

(ii) Identify issues related to the SHSP's process, implementation, and progress that should be considered during each subsequent SHSP update.

(b) The information resulting from paragraph (a)(1) of this section shall be used:

(1) To update safety data used in the planning process in accordance with § 924.9;

(2) For setting priorities for highway safety improvement projects;

(3) For assessing the overall effectiveness of the HSIP; and

(4) For reporting required by § 924.15.

(c) The evaluation process may be financed with funds made available under 23 U.S.C. 104(b)(3) and 505, and, for metropolitan planning areas, 23 U.S.C. 104(d). The eligible use of the program funding categories listed for HSIP evaluation efforts is subject to that program's eligibility requirements and cost allocation procedures as per 2 CFR part 200.

§ 924.15 Reporting.

(a) For the period of the previous reporting year, each State shall submit, via FHWA's HSIP online reporting tool, to the FHWA Division Administrator no later than August 31 of each year, the following reports related to the HSIP in accordance with 23 U.S.C. 148(h) and 130(g):

(1) A report describing the progress being made to implement the HSIP that:

(i) Describes the structure of the HSIP. This section shall:

(A) Describe how HSIP funds are administered in the State; and

(B) Provide a summary of the methodology used to develop the programs and projects being implemented under the HSIP on all public roads.

(ii) Describes the progress in implementing highway safety improvement projects. This section shall:

(A) Compare the funds programmed in the STIP for highway safety improvement projects and those obligated during the reporting year; and

(B) Provide a list of highway safety improvement projects that were obligated during the reporting year, including non-infrastructure projects. Each project listed shall identify how it relates to the State SHSP.

(iii) Describes the progress in achieving safety outcomes and performance targets. This section shall:

(A) Provide an overview of general highway safety trends. General highway safety trends shall be presented by number and rate of fatalities and serious injuries on all public roads by calendar year, and to the maximum extent practicable, shall also be presented by functional classification and roadway ownership. General highway safety trends shall also be presented for the total number of fatalities and serious injuries for non-motorized users;

(B) Document the safety performance targets established in accordance with 23 U.S.C. 150 for the following calendar year. Documentation shall also include a discussion of the basis for each established target, and how the established target supports SHSP goals. In future years, documentation shall also include a discussion of any reasons for differences in the actual outcomes and targets; and

(C) Present information related to the applicability of the special rules defined in 23 U.S.C. 148(g).

(iv) Assesses the effectiveness of the improvements. This section shall describe the effectiveness of groupings or similar types of highway safety improvement projects previously implemented under the HSIP.

(v) Is compatible with the requirements of 29 U.S.C. 794(d), Section 508 of the Rehabilitation Act.

(2) A report describing progress being made to implement railway-highway crossing improvements in accordance with 23 U.S.C. 130(g) and the effectiveness of these improvements.

(b) The preparation of the State's annual reports may be financed with funds made available through 23 U.S.C. 104(b)(3).

§ 924.17 MIRE fundamental data elements.

The MIRE fundamental data elements shall be collected on all public roads, as listed in Tables 1, 2, and 3 of this section. For the purpose of MIRE fundamental data elements applicability, the term open to public travel is consistent with 23 CFR 460.2(c).

TABLE 1—MIRE FUNDAMENTAL DATA ELEMENTS FOR NON-LOCAL (BASED ON FUNCTIONAL CLASSIFICATION) PAVED ROADS

MIRE name (MIRE No.) [1]	
Roadway segment	Intersection
Segment Identifier (12)	Unique Junction Identifier (120).
Route Number (8) [2]	Location Identifier for Road 1 Crossing Point (122).
Route/street Name (9) [2]	Location Identifier for Road 2 Crossing Point (123).
Federal Aid/Route Type (21) [2]	Intersection/Junction Geometry (126).
Rural/Urban Designation (20) [2]	Intersection/Junction Traffic Control (131).
Surface Type (23) [2]	AADT (79) [for Each Intersecting Road].
Begin Point Segment Descriptor (10) [2]	AADT Year (80) [for Each Intersecting Road].
End Point Segment Descriptor (11) [2]	
Segment Length (13) [2]	
Direction of Inventory (18)	Unique Approach Identifier (139).
Functional Class (19) [2]	
Median Type (54)	
Access Control (22) [2]	
One/Two-Way Operations (91) [2]	Interchange/Ramp.
Number of Through Lanes (31) [2]	Unique Interchange Identifier (178).
Average Annual Daily Traffic (79) [2]	Location Identifier for Roadway at Beginning Ramp Terminal (197).
AADT Year (80) [2]	Location Identifier for Roadway at Ending Ramp Terminal (201).
Type of Governmental Ownership (4) [2]	Ramp Length (187).
	Roadway Type at Beginning Ramp Terminal (195).
	Roadway Type at Ending Ramp Terminal (199).
	Interchange Type (182).
	Ramp AADT (191).[2]
	Year of Ramp AADT (192).[2]
	Functional Class (19).[2]
	Type of Governmental Ownership (4).[2]

[1] *Model Inventory of Roadway Elements—MIRE, Version 1.0,* Report No. FHWA–SA–10–018, October 2010, *http://safety.fhwa.dot.gov/tools/data_tools/mirereport/mirereport.pdf.*

[2] Highway Performance Monitoring System full extent elements are required on all Federal-aid highways and ramps located within grade-separated interchanges, *i.e.,* National Highway System (NHS) and all functional systems excluding rural minor collectors and locals.

TABLE 2—MIRE FUNDAMENTAL DATA ELEMENTS FOR LOCAL (BASED ON FUNCTIONAL CLASSIFICATION) PAVED ROADS

MIRE name (MIRE No.) [1]
Roadway segment:
Segment Identifier (12).
Functional Class (19).[2]
Surface Type (23).[2]
Type of Governmental Ownership (4).[2]
Number of Through Lanes (31).[2]
Average Annual Daily Traffic (79).[2]
Begin Point Segment Descriptor (10).[2]
End Point Segment Descriptor (11).[2]
Rural/Urban Designation (20).[2]

[1] *Model Inventory of Roadway Elements—MIRE, Version 1.0,* Report No. FHWA-SA-10-018, October 2010, *http://safety.fhwa.dot.gov/tools/data_tools/mirereport/mirereport.pdf.*

[2] Highway Performance Monitoring System full extent elements are required on all Federal-aid highways and ramps located within grade-separated interchanges, *i.e.,* National Highway System (NHS) and all functional systems excluding rural minor collectors and locals.

TABLE 3—MIRE FUNDAMENTAL DATA ELEMENTS FOR UNPAVED ROADS

MIRE name (MIRE No.) [1]
Roadway segment:
Segment Identifier (12).
Functional Class (19).[2]

TABLE 3—MIRE FUNDAMENTAL DATA ELEMENTS FOR UNPAVED ROADS—Continued

MIRE name (MIRE No.) [1]
Type of Governmental Ownership (4).[2]
Begin Point Segment Descriptor (10).[2]
End Point Segment Descriptor (11).[2]

[1] *Model Inventory of Roadway Elements—MIRE, Version 1.0,* Report No. FHWA–SA–10–018, October 2010, *http://safety.fhwa.dot.gov/tools/data_tools/mirereport/mirereport.pdf.*

[2] Highway Performance Monitoring System full extent elements are required on all Federal-aid highways and ramps located within grade-separated interchanges, *i.e.,* National Highway System (NHS) and all functional systems excluding rural minor collectors and locals.

[FR Doc. 2016–05190 Filed 3–14–16; 8:45 am]

BILLING CODE 4910–22–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4022 and 4044

Allocation of Assets in Single-Employer Plans; Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation's regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans to prescribe interest assumptions under the benefit payments regulation for valuation dates in April 2016 and interest assumptions under the asset allocation regulation for valuation dates in the second quarter of 2016. The interest assumptions are used for valuing and paying benefits under terminating single-employer plans covered by the pension insurance system administered by PBGC.

DATES: Effective April 1, 2016.

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion (*Klion.Catherine@PBGC.gov*), Assistant General Counsel

for Regulatory Affairs, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005, 202–326–4024. (TTY/TDD users may call the Federal relay service toll free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: PBGC's regulations on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) and Benefits Payable in Terminated Single-Employer Plans (29 CFR part 4022) prescribe actuarial assumptions—including interest assumptions—for valuing and paying plan benefits under terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions in the regulations are also published on PBGC's Web site (*http://www.pbgc.gov*).

The interest assumptions in Appendix B to Part 4044 are used to value benefits for allocation purposes under ERISA section 4044. PBGC uses the interest assumptions in Appendix B to Part 4022 to determine whether a benefit is payable as a lump sum and to determine the amount to pay. Appendix C to Part 4022 contains interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using PBGC's historical methodology. Currently, the rates in Appendices B and C of the benefit payment regulation are the same.

The interest assumptions are intended to reflect current conditions in the financial and annuity markets. Assumptions under the asset allocation regulation are updated quarterly; assumptions under the benefit payments regulation are updated monthly. This final rule updates the benefit payments interest assumptions for April 2016 and updates the asset allocation interest assumptions for the second quarter (April through June) of 2016.

The second quarter 2016 interest assumptions under the allocation regulation will be 2.77 percent for the first 20 years following the valuation date and 2.86 percent thereafter. In comparison with the interest assumptions in effect for the first quarter of 2016, these interest assumptions represent no change in the select period (the period during which the select rate (the initial rate) applies), a decrease of 0.05 percent in the select rate, and a decrease of 0.09 percent in the ultimate rate (the final rate).

The April 2016 interest assumptions under the benefit payments regulation will be 1.00 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. In comparison with the interest assumptions in effect for March 2016, these interest assumptions represent a decrease of 0.25 percent in the immediate annuity rate and are otherwise unchanged.

PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect current market conditions as accurately as possible.

Because of the need to provide immediate guidance for the valuation and payment of benefits under plans with valuation dates during April 2016, PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects

29 CFR Part 4022

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 4044

Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, 29 CFR parts 4022 and 4044 are amended as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

■ 1. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

■ 2. In appendix B to part 4022, Rate Set 270, as set forth below, is added to the table.

Appendix B to Part 4022—Lump Sum Interest Rates For PBGC Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*	*	
270	4–1–16	5–1–16	1.00	4.00	4.00	4.00	7	8

■ 3. In appendix C to part 4022, Rate Set 270, as set forth below, is added to the table.

Appendix C to Part 4022—Lump Sum Interest Rates for Private-Sector Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*	*	*	*	*	*	*	*
270	4–1–16	5–1–16	1.00	4.00	4.00	4.00	7	8

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

■ 4. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

■ 5. In appendix B to part 4044, a new entry for April–June 2016, as set forth below, is added to the table.

Appendix B to Part 4044—Interest Rates Used To Value Benefits

* * * * *

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t =	i_t	for t =	i_t	for t =
*	*	*	*	*	*	*
April–June 2016	0.0277	1–20	0.0286	>20	N/A	N/A

Issued in Washington, DC, on this 9th day of March 2016.

Judith Starr,

General Counsel, Pension Benefit Guaranty Corporation.

[FR Doc. 2016–05733 Filed 3–14–16; 8:45 am]

BILLING CODE 7709–02–P

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

33 CFR Part 401

[Docket No. SLSDC–2016–0004]

RIN 2135–AA39

Seaway Regulations and Rules: Periodic Update, Various Categories

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Final rule.

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

DATES: This final rule will be effective on March 21, 2016.

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

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

SUPPLEMENTARY INFORMATION: The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Regulations and Rules (Practices and Procedures in Canada) in their respective jurisdictions. Under agreement with the SLSMC, the SLSDC is amending the joint regulations by updating the Regulations and Rules in various categories. The changes will update the following sections of the Regulations and Rules: Condition of Vessels; Seaway Navigation; and, Information and Reports. These updates are necessary to take account of updated procedures which will enhance the safety of transits through the Seaway. Many of these changes are to clarify existing requirements in the regulations. Where new requirements or regulations are made, an explanation for such a change is provided below. A Notice of Proposed Rulemaking was published in the **Federal Register** on February 5, 2016 (81 FR 6198). No comments were received. The joint regulations will become effective in Canada on March 21, 2016. For consistency, because these are joint regulations under international agreement, and to avoid confusion among users of the Seaway, the SLSDC finds that there is good cause to make the U.S. version of the amendments effective on the same date.

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

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

vessels of more than 150 m but not more than 200 m to use either soft or wire lines.

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

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

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

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

Regulatory Evaluation

This regulation involves a foreign affairs function of the United States and therefore Executive Order 12866 does not apply and evaluation under the Department of Transportation's Regulatory Policies and Procedures is not required.

Regulatory Flexibility Act Determination

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

Environmental Impact

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

Federalism

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

Unfunded Mandates

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

Paperwork Reduction Act

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

List of Subjects in 33 CFR Part 401

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

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

PART 401—SEAWAY REGULATIONS AND RULES

Subpart A—Regulations

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

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

■ 2. In § 401.10:

■ a. Revise paragraph (b); and

■ b. In the table in paragraph (d), revise the fifth entry.

The revisions read as follows:

§ 401.10 Mooring lines.

* * * * *

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

* * * * *

(d) * * *

TABLE

Overall length of ships	Length of mooring line	Breaking strength
* * * * * * *		
More than 180 m but not more than 225.5 m	110 m	35 MT.
* * * * * * *		

* * * * *

■ 3. In § 401.12, revise paragraph (a) to read as follows:

§ 401.12 Minimum requirements—mooring lines and fairleads.

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

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

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

(ii) One synthetic hawser may be hand held or if wire line is used shall be powered. The line shall lead astern

from the break of the bow through a closed chock to suitable bitts on deck for synthetic line or led from a capstan, winch drums or windlass to an approved fairlead for a wire line.

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

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

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

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

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

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

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

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

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

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

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

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

* * * * *

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

§ 401.13 Hand lines.

* * * * *

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

* * * * *

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

§ 401.17 Pitch indicators and alarms.

* * * * *

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

* * * * *

■ 6. In § 401.29, revise paragraph (c) and remove paragraphs (d) through (h) to read as follows:

§ 401.29 Maximum draft.

* * * * *

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

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

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

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

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

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

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

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

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

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

■ 7. In § 401.37, revise paragraph (b) to read as follows:

§ 401.37 Mooring at tie-up walls.

* * * * *

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

* * * * *

■ 8. Revise § 401.44 to read as follows:

§ 401.44 Mooring in locks.

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

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

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

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

■ 9. Revise § 401.45 to read as follows:

§ 401.45 Emergency procedure.

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

■ 10. Revise § 401.47 to read as follows:

§ 401.47 Leaving a lock.

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

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

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

(68 Stat. 93–96, 33 U.S.C. 981–990, as amended and secs. 4, 5, 6, 7, 8, 12 and 13 of sec. 2 of Pub. L. 95–474, 92 Stat. 1471)

■ 11. In § 401.79, revise paragraph (a) introductory text to read as follows:

§ 401.79 Advance notice of arrival, vessels requiring inspection.

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

* * * * *

■ 12. In § 401.80, add paragraph (c) to read as follows:

§ 401.80 Reporting dangerous cargo.

* * * * *

(c) Vessels carrying ''Certain Dangerous Cargo'' (CDC) as defined in the United States Coast Guard regulations 33 CFR 160.202, which is the same as the definition in the Transport Canada ''Marine Transportation Security Regulations'' (MTSR's), shall report the ''Certain Dangerous Cargo'' to the nearest Seaway station prior to a Seaway transit.

* * * * *

■ 13. In appendix I to subpart A, revise the Caution statement to read as follows:

Appendix I to Subpart A of Part 401—Vessel Dimensions

* * * * *

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

* * * * *

Issued at Washington, DC, on March 10, 2016.

Saint Lawrence Seaway Development Corporation.

Carrie Lavigne,

Chief Counsel.

[FR Doc. 2016–05798 Filed 3–14–16; 8:45 am]

BILLING CODE 4910–61–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1802, 1804, 1805, 1806, 1807, 1808, 1811, 1813, 1814, 1815, 1822, 1824, 1825, 1828, 1830, 1831, 1832, 1833, 1834, 1835, 1836, 1839, 1841, 1843, 1844, 1847, 1849, 1850, 1851, and 1852

RIN 2700–AE01 and 2700–AE09

NASA Federal Acquisition Regulation Supplement; Correction

AGENCY: National Aeronautics and Space Administration.

ACTION: Correcting amendments.

SUMMARY: The National Aeronautics and Space Administration (NASA) published a final rule in the **Federal Register** on Thursday, March 12, 2015 (80 FR 12935), as part of the NASA Federal Acquisition Regulation Supplement (NFS) regulatory review. That final rule contained errors that need to be corrected.

DATES: *Effective:* March 15, 2016.

FOR FURTHER INFORMATION CONTACT: Manuel Quinones, NASA, Office of Procurement, Contract and Grant Policy Division, via email at *manuel.quinones@nasa.gov,* or telephone (202) 358–2143.

SUPPLEMENTARY INFORMATION:

I. Background

NASA published a final rule in the **Federal Register** on March 12, 2015, which became effective April 13, 2015. This rule is part of the NASA FAR Supplement regulatory review. As published, the rule contained errors that require the following changes:

- Revise section 1845.107–70(a)(1) to correct the title of the prescribed clause to ''Contractor Requests for Government-furnished Property.''
- Revise section 1852.227–70 clause title to ''NEW TECHNOLOGY—OTHER THAN A SMALL BUSINESS FIRM OR NONPROFIT ORGANIZATION.''
- Revise section 1852.245–70 clause title to ''Contractor Requests for Government-furnished Property.''
- Update the authority citation of several NFS parts.

List of Subjects in 48 CFR Parts 1802, 1804, 1805, 1806, 1807, 1808, 1811, 1813, 1814, 1815, 1822, 1824, 1825, 1828, 1830, 1831, 1832, 1833, 1834, 1835, 1836, 1839, 1841, 1843, 1844, 1847, 1849, 1850, 1851, and 1852

Government procurement.

Manuel Quinones,

NASA FAR Supplement Manager.

Accordingly, 48 CFR parts 1802, 1804, 1805, 1806, 1807, 1808, 1811, 1813, 1814, 1815, 1822, 1824, 1825, 1828, 1830, 1831, 1832, 1833, 1834, 1835, 1836, 1839, 1841, 1843, 1844, 1847, 1849, 1850, 1851, and 1852 are amended as follows:

PARTS 1802, 1804, 1805, 1806, 1807, 1808, 1811, 1813, 1814, 1815, 1822, 1824, 1825, 1828, 1830, 1831, 1832, 1833, 1834, 1835, 1836, 1839, 1841, 1843, 1844, 1847, 1849, 1850, 1851, and 1852—[AMENDED]

■ 1. The authority citation for parts 1802, 1804, 1805, 1806, 1807, 1808, 1811, 1813, 1814, 1815, 1822, 1824, 1825, 1828, 1830, 1831, 1832, 1833, 1834, 1835, 1836, 1839, 1841, 1843, 1844, 1847, 1849, 1850, 1851, and 1852 is revised to read as follows:

Authority: 51 U.S.C. 20113(a) and 48 CFR chapter 1.

PART 1845—GOVERNMENT PROPERTY

1845.107–70 [Amended]

■ 2. Amend section 1845.107–70(a)(1) by removing ''Government-Provided Property'' and adding ''Government-furnished Property'' in its place.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1852.227–70 [Amended]

■ 3. Amend section 1852.227–70 by removing ''NEW TECHNOLOGY'' and adding ''NEW TECHNOLOGY—OTHER THAN A SMALL BUSINESS FIRM OR NONPROFIT ORGANIZATION'' in its place.

■ 4. Revise section 1852.245–70 heading and title of the clause to read as follows:

1852.245–70 Contractor requests for Government-furnished equipment.

* * * * *

CONTRACTOR REQUESTS FOR GOVERNMENT-FURNISHED PROPERTY (AUG 2015)

* * * * *

[FR Doc. 2016–05803 Filed 3–14–16; 8:45 am]

BILLING CODE 7510–13–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

48 CFR Parts 2404, 2406, 2408, 2409, 2411, 2415, 2427, 2428, 2432, 2437, 2444, and 2452

[Docket No. FR–5814–F–02]

RIN 2501–AD73

Amendments to the HUD Acquisition Regulation (HUDAR)

AGENCY: Office of the Chief Procurement Officer, HUD.

ACTION: Final rule.

SUMMARY: This final rule amends the HUDAR to implement miscellaneous changes necessary to update the HUDAR. These changes include a correction to the designation of Source Selection Authorities, limited delegation of Head of Contracting Activity authorities, incorporation of the HUDAR Matrix, addition of new clauses including clauses relating to labor categories and prices per hour, and post-award conferences. HUD is transitioning to the Department of Treasury's Bureau of Fiscal Services' Invoice Platform Processing System (IPP), and this final rule revises clauses related to payments and invoicing to take into account both the situations where invoicing and payment will not be made through the IPP and where invoices are required to be submitted electronically through the IPP. This final rule also clarifies that where funding has been made available for a contract, and the limit of the

funding has been reached or the necessary funding modification is not in place, the contractor must stop performing work and may not start again until notified through a contract funding modification that funds are available to continue work. This final rule also modifies the proposed provision on post-award conferences to limit the clause to cases where a conference is required, and provides an alternate clause for attendance at such conferences via telephone or video conference. The rule makes certain administrative corrections, and incorporation of alternates to various clauses to allow for electronic invoicing.

DATES: *Effective:* April 14, 2016.

FOR FURTHER INFORMATION CONTACT: Lisa D. Maguire, Assistant Chief Procurement Officer for Policy, Systems and Risk Management, Office of the Chief Procurement Officer, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; telephone number 202–708–0294 (this is not a toll-free number) and fax number 202–708–8912. Persons with hearing or speech impairments may access Ms. Maguire's telephone number via TTY by calling the toll-free Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

A. The May 28, 2015, Proposed Rule

The Federal Acquisition Regulation (FAR), which governs the procurement of property and nonpersonal services by the government, is authorized by the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 101 *et seq.* Pursuant to regulations of the General Services Administration under the authority of 40 U.S.C. 121(c) of the same Act, the FAR provides at 48 CFR 1.301 for agencies to issue their own acquisition regulations to implement or supplement the FAR. HUD's acquisition regulation (HUDAR) is found at 48 CFR chapter 24.

On May 28, 2015, HUD proposed revising certain sections prescribing contract clauses, and certain of the clauses and alternates, in the HUDAR (80 FR 30416). Many of these corrections were administrative or technical in nature, such as correcting references to contract clauses, designating certain forms to be used for specific purposes, and delegating certain functions to specific positions within the agency.

For example, the rule proposed designating the Deputy Chief Procurement Officer as the responsible official with the authority to approve, in writing, justifications for other than full and open procurements for proposed contracts over $13.5 million, but not exceeding $68 million (2406.304(a)(3)); and justifications for Limited Source considerations for proposed Federal Supply Schedule order or Blanket Purchase Agreement (BPA) in the same estimated contract price range (2408.405–6(d)(3)). The rule also proposed designating HUD Assistant Secretaries, or their equivalent, as the Source Selection Authorities for selections made using the tradeoff process (2415.303(a)(1)) and to allow Assistant Secretaries to delegate this function to other departmental officials. There is an exception for procurements of legal services, in which case the General Counsel is designated as the source selection authority (2415.303(a)(2)).

The rule proposed adding requirements concerning information to be collected by the Contracting Officer to determine a contractor's financial responsibility. The rule proposed adding a clause on consent to subcontract, applicable to contracts and task orders exceeding $10,000,000 in value (2452.244–70).

The rule proposed several administrative corrections, including: revising section 2404.7001 to refer to the correct contract clause 2452.204–70, ''Preservation of, and Access to, Contract Records (Tangible and Electronically Stored Information (ESI) Formats),'' and removing the title and redesignating the clause that is codified at section 2432.705–70 as 2432.705–70(a).

In part 2406, the rule proposed adding section 2406.303 which requires the use of HUD Form 24012 [1] for justifications for other than full and open competition.

The rule also proposed to:

Clarify section 2415.305(a)(5) to apply to Best Value Tradeoff technical evaluations;

Codify a class deviation approved by HUD's Chief Procurement Officer dated April 10, 2013 to add Alternate 1 to clauses 2452.232–70 and 2452.232–71. These alternate clauses would provide for electronic invoicing by email;

Add clause 2452.232–74, entitled ''Not to Exceed Limitation,'' and, in part 2432, add a reference to that clause and requirements regarding its use at section 2432.705;

Revise clause 2452.237–77(c)(1)(A) to change ''21 days per month'' to ''number of business days in the month'', and to make a technical fix;

Add clause 2452.237–79, ''Post-Award Conference,'' and a reference to that clause and requirements regarding its use at section 2437.110(e)(5). The clause as proposed would have been required in all contracts for services;

Add clause 2452.237–81, ''Labor Categories, Unit Prices Per Hour and Payment,'' and a reference to that clause and requirements regarding its use at section 2437.110(e)(6). This clause would specify the types of labor to be supplied by the contractor and the price per hour.

Finally, the proposed rule incorporated a new HUDAR matrix under subpart 2452.3. The matrix provides a quick reference for information about each clause or provision, including whether it is required, required when applicable, or optional for the various types of contracts.

B. This Final Rule

This final rule follows publication of the May 28, 2015 proposed rule. HUD received no public comments on the proposed rule. However, HUD is making two related changes to the post-award conference provision and contract clause.

This final rule clarifies a point that was unclear as to incremental funding. In section 2432.703–1, as it currently is codified, the HUDAR regulation states that a fixed-price contract may be funded incrementally if the conditions in paragraph (b)(1)(i) and (b)(1)(ii)(A), (B), and (C) are met, *or* if the condition in (b)(1)(iii) is met (that the contract uses funds available from 2 or more fiscal years and Congress has otherwise authorized incremental funding). This is actually not quite correct. While it is correct that the conditions in (b)(1)(i) and (ii) and their subordinate paragraphs apply, if the condition in (b)(1)(iii) is applicable, it applies as well; in other words, where (b)(1)(iii) is applicable, it and all the other conditions apply; it is not an alternative to the other clauses. This final rule makes this applicability of (b)(1)(iii) more clear.

In the provision at 2437.110(e)(5), where the proposed rule required the post-award conference clause to be used in all contracts for services, the final rule modifies this provision so that the clause will be used only when the contractor will be required to attend a post-award conference. In other cases, the clause is unnecessary, and this change will reduce burden in those cases. The clause itself, at 2452.237–79, is revised to add an alternate clause for use when the post-award conference will be conducted via telephone or video conferencing. This is consistent with other revisions to provide for the use of electronic communications in this rule (such as the alternate clauses for electronic invoicing) and recognizes

[1] See *http://portal.hud.gov/hudportal/documents/huddoc?id=24012.pdf.*

the increasing use of such communications. The matrix is also revised to reflect these changes.

Because HUD is now transitioning to the Department of Treasury's Bureau of Financial Services Invoice Processing Platform (IPP) system, clauses 2452.232–70 and 2452.232–71 are revised to add material relevant to the IPP in this final rule. In clause 2452.232–70, which covers invoice submission for fixed price contracts, the first clause listed is for the case where invoicing and payments will not be made through the IPP system, and this clause is similar to the proposed main clause through paragraph (d). Alternate I, as proposed, is for electronic submission of invoices via email in fixed price contracts other than performance-based contracts under which performance based payments will be used. Alternate I in this final rule covers the same subject, and is similar to the proposed rule, where the invoices will be submitted electronically by email but not submitted through the IPP system. New in this final rule is Alternate II, which covers the situation where, in all fixed price solicitations and contracts, invoices are required to be submitted electronically through the IPP system.

A similar change to account for the transition to the IPP system is also made in this final rule to clause 2452.232–71, which covers voucher submission for cost reimbursement, time-and-materials, and labor-hour contracts. As with the previous clause, the main clause and Alternate I deal, respectively with paper submission and electronic submission in cases where the IPP is not being used, and are essentially similar to the same clauses as proposed with the exception that the proviso that it applies where vouchering and payments will not be made through the IPP. This final rule adds Alternate II to cover all cost-reimbursement, time-and-materials, and labor-hour type solicitations and contracts when requiring vouchers to be submitted electronically to the IPP system. These transitional provisions simply update procedures to allow contracting to continue as HUD transitions to the IPP.

The proposed clause 2452.232–74, entitled ''Not to Exceed Limitation,'' is revised to clarify a particular point. The proposed rule provided that a contract states a specific amount of funding available for the performance of work, and that the government shall not order, nor the contractor be required, to perform work that exceeds the funding limit, and that the government may unilaterally increase the amount of funding obligated through contract modifications until the full contract value has been obligated. The proposed rule did not state what is required in the case where all the contract funding is not yet obligated but a particular funding limit has been reached and a contract modification is needed to provide additional funding. This final rule clarifies that if a necessary modification is not yet in place, or the work has reached the stated funding limit, the contractor must stop performance and may not start again until notified through a contract funding modification that funds are available.

The rule is being made final with no other changes from the proposed rule.

II. Findings and Certifications

Paperwork Reduction Act Statement

The information collection requirements contained in this final rule are currently approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB control number 2535–0091. The information collection requirements for the HUDAR are currently approved by OMB under control number 2535–0091. In accordance with the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a currently valid OMB control number.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. This rule does not impose any federal mandate on any state, local, or tribal government or the private sector within the meaning of UMRA.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This final rule makes technical changes to existing contracting procedures and does not make any major changes that would significantly impact businesses. Accordingly, the undersigned certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Environmental Impact

This final rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this final rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This final rule would not have federalism implications and would not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

List of Subjects

48 CFR Part 2404

Government procurement.

48 CFR Part 2406

Government procurement.

48 CFR Part 2408

Government procurement.

48 CFR Part 2409

Government Procurement.

48 CFR Part 2411

Government Procurement.

48 CFR Part 2415

Government procurement.

48 CFR Part 2432

Government procurement.

48 CFR Part 2437

Government procurement.

48 CFR Part 2444

Government procurement.

48 CFR Part 2452

Government procurement.

For the reasons discussed in the preamble, and pursuant to the authority

under 42 U.S.C. 3535(d), HUD amends 48 CFR chapter 24 as follows:

PART 2404—ADMINISTRATIVE MATTERS

■ 1. The authority citation for part 2404 continues to read as follows:

Authority: 42 U.S.C. 3535(d).

Subpart 2404.7—Contractor Records Retention

■ 2. Revise section 2404.7001 to read as follows:

2404.7001 Contract clause.

The Contracting Officer shall insert the clause at 2452.204–70, ''Preservation of, and Access to, Contract Records (Tangible and Electronically Stored Information (ESI) Formats),'' in all solicitations and contracts exceeding the simplified acquisition threshold. The Contracting Officer shall use the basic clause with its Alternate I in cost-reimbursement type contracts. The Contracting Officer shall use the basic clause with its Alternate II in labor-hour and time-and-materials contracts.

PART 2406—COMPETITION REQUIREMENTS

■ 3. The authority citation for part 2406 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 41 U.S.C. 3301 *et seq.;* 42 U.S.C. 3535(d).

Subpart 2406.3—Other Than Full and Open Competition

■ 4. Add section 2406.303 to read as follows:

2406.303 Justifications.

Justifications for Other Than Full and Open Competition must be prepared and approved using the latest version of HUD Form 24012.

■ 5. In section 2406.304. add paragraph (a)(3) to read as follows:

2406.304 Approval of the justification.

(a)(3) HUD's Chief Procurement Officer, as the Head of Contracting Activity, has delegated the authority to the Deputy Chief Procurement Officer to approve, in writing, justifications for other than full and open competition procurements for proposed contracts over $13.5 million, but not exceeding $68 million.

* * * * *

PART 2408—REQUIRED SOURCES OF SUPPLIES AND SERVICES

■ 6. The authority citation for part 2408 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 42 U.S.C. 3535(d).

■ 7. Add subpart 2408.4 to read as follows:

Subpart 2408.4—Federal Supply Schedules

Sec.
2408.404 Pricing.
2408.405–6 Limiting sources.
2408.404 Pricing.

(d) Supplies offered on the schedule are listed at fixed prices. Services offered on the schedule are priced either at hourly rates, or at fixed price for performance of a specific task (*e.g.,* installation, maintenance, and repair). GSA has determined the prices of supplies and fixed-price services, and rates for services offered at hourly rates, to be fair and reasonable for the purpose of establishing the schedule contract. GSA's determination does not relieve the ordering activity Contracting Officer from the responsibility of making a determination of fair and reasonable pricing for individual orders, BPAs, and orders under BPAs. Contracting Officers shall follow the general principles and techniques outlined in FAR Section 15.404–1, Proposal Analysis Techniques, to ensure that the final agreed-to price is fair and reasonable, keeping in mind that the complexity and circumstances of each acquisition should determine the level of detail of the analysis required.

2408.405–6 Limiting sources.

(c)(2) Justifications for limiting sources, under the Federal Supply Schedules when exceeding the simplified acquisition threshold, must be prepared and approved using the latest version of HUD Form 24013.

(d)(3) HUD's Chief Procurement Officer, as the Head of Contracting Activity, has delegated the authority to the Deputy Chief Procurement Officer to approve, in writing, justifications for limited source considerations for a proposed Federal Supply Schedule order or Blanket Purchase Agreement (BPA) with an estimated value exceeding $13.5 million, but not exceeding $68 million.

PART 2409—CONTRACTOR QUALIFICATIONS

■ 8. The authority citation for part 2409 continues to read as follows:

Authority: 40 U.S.C. 121(c); 42 U.S.C. 3535(d).

■ 9. Add subpart 2409.1, consisting of section 2409.105, to read as follows:

Subpart 2409.1—Responsible Prospective Contractors

2409.105 Procedures.

(a) The Contracting Officer shall perform a financial review when the Contracting Officer does not otherwise have sufficient information to make a positive determination of financial responsibility. In addition, the Contracting Officer shall consider performing a financial review—

(1) Prior to award of a contract, when—

(i) The contractor is on a list requiring pre-award clearance or other special clearance before award;

(ii) The contractor is listed on the Consolidated List of Contractors Indebted to the Government, or is otherwise known to be indebted to the Government;

(iii) The contractor may receive Government assets such as contract financing payments or Government property;

(iv) The contractor is experiencing performance difficulties on other work; or

(v) The contractor is a new company or a new supplier of the item.

(2) At periodic intervals after award of a contract, when—

(i) Any of the conditions in paragraphs (a)(1)(ii) through (v) of this section are applicable; or

(ii) There is any other reason to question the contractor's ability to finance performance and completion of the contract.

(b) The Contracting Officer shall obtain the type and depth of financial and other information that is required to establish a contractor's financial capability or disclose a contractor's financial condition. While the Contracting Officer should not request information that is not necessary for protection of the Government's interests, the Contracting Officer must insist upon obtaining the information that is necessary. The unwillingness or inability of a contractor to present reasonably requested information in a timely manner, especially information that a prudent business person would be expected to have and to use in the professional management of a business, may be a material fact in the determination of the contractor's responsibility and prospects for contract completion.

(c) The Contracting Officer shall obtain the following information to the extent required to protect the Government's interest. In addition, if the Contracting Officer concludes that information not listed herein is required to determine financial responsibility,

that information should be requested. The information must be for the person(s) who are legally liable for contract performance. If the contractor is not a corporation, the Contracting Officer shall obtain the required information for each individual/joint venturer/partner:

(1) Balance sheet and income statement—

(i) For the current fiscal year (interim);

(ii) For the most recent fiscal year and, preferably, for the 2 preceding fiscal years. These should be certified by an independent public accountant or by an appropriate officer of the firm; and

(iii) Forecasted for each fiscal year for the remainder of the period of contract performance.

(2) Summary history of the contractor and its principal managers, disclosing any previous insolvencies—corporate or personal, and describing its products or services.

(3) Statement of all affiliations disclosing—

(i) Material financial interests of the contractor;

(ii) Material financial interests in the contractor;

(iii) Material affiliations of owners, officers, members, directors, major stockholders; and

(iv) The major stockholders if the contractor is not a widely-traded, publicly-held corporation.

(4) Statement of all forms of compensation to each officer, manager, partner, joint venturer, or proprietor, as appropriate—

(i) Planned for the current year;

(ii) Paid during the past 2 years; and

(iii) Deferred to future periods.

(5) Business base and forecast that—

(i) Shows, by significant markets, existing contracts and outstanding offers, including those under negotiation; and

(ii) Is reconcilable to indirect cost rate projections.

(6) Cash forecast for the duration of the contract.

(7) Financing arrangement information that discloses—

(i) Availability of cash to finance contract performance;

(ii) Contractor's exposure to financial crisis from creditor's demands;

(iii) Degree to which credit security provisions could conflict with Government title terms under contract financing;

(iv) Clearly stated confirmations of credit with no unacceptable qualifications; and

(v) Unambiguous written agreement by a creditor if credit arrangements include deferred trade payments or creditor subordinations/repayment suspensions.

(8) Statement of all state, local, and Federal tax accounts, including special mandatory contributions, *e.g.,* environmental superfund.

(9) Description and explanation of the financial effect of issues such as—

(i) Leases, deferred purchase arrangements, or patent or royalty arrangements;

(ii) Insurance, when relevant to the contract;

(iii) Contemplated capital expenditures, changes in equity, or contractor debt load;

(iv) Pending claims either by or against the contractor;

(v) Contingent liabilities such as guarantees, litigation, environmental, or product liabilities;

(vi) Validity of accounts receivable and actual value of inventory, as assets; and

(vii) Status and aging of accounts payable.

(10) Significant ratios such as—

(i) Inventory to annual sales;

(ii) Inventory to current assets;

(iii) Liquid assets to current assets;

(iv) Liquid assets to current liabilities;

(v) Current assets to current liabilities; and

(vi) Net worth to net debt.

PART 2411—[REMOVED AND RESERVED]

■ 10. Under the authority of 40 U.S.C. 121(c), part 2411 is removed and reserved.

PART 2415—CONTRACTING BY NEGOTIATION

■ 11. The authority citation for part 2415 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 41 U.S.C. 3301–3306 and 3105; 42 U.S.C. 3535(d).

Subpart 2415.2—Solicitation and Receipt of Proposals and Quotations

■ 12. In section 2415.209, revise paragraph (a)(1) to read as follows:

2415.209 Solicitation provisions and contract clauses.

(a)(1) The Contracting Officer shall insert a provision substantially the same as the provision at 2452.215–70, Proposal Content, in all solicitations for negotiated procurements expected to exceed the simplified acquisition limit. The provision may be used in simplified acquisitions when it is necessary to obtain business proposal information in making the award selection. If the proposed contract requires work on, or access to, HUD systems or applications (see the clause at 2452.239–70), the provision shall be used with its Alternate I. When the Contracting Officer has determined that it is necessary to limit the size of the technical and management portion of offers submitted by offerors, the provision shall be used with its Alternate II.

* * * * *

Subpart 2415.3—Source Selection

■ 13. In section 2415.303, revise paragraph (a) to read as follows:

2415.303 Responsibilities.

(a)(1) Except as identified in paragraph (a)(2) of this section, HUD's Chief Procurement Officer, as the Senior Procurement Executive, designates Assistant Secretaries, or their equivalent, for requiring activities as the Source Selection Authorities for selections made using the tradeoff process. Assistant Secretaries may delegate this function to other departmental officials. This designation also applies to acquisitions not performed under the requirements of FAR part 15, but utilizing tradeoff analysis.

(2) HUD's Chief Procurement Officer, as the Senior Procurement Executive, designates HUD's Office of General Counsel (OGC) as the Source Selection Authority, regardless of contract amount, in all Headquarters procurements for legal services, unless (s)he specifically designates another agency official to perform that function. Any Headquarters office desiring to procure outside legal services for the Department shall obtain OGC approval before advertising or soliciting proposals for such services. OGC shall determine whether the services are necessary and the extent of OGC involvement in the procurement.

* * * * *

■ 14. In section 2415.305, revise paragraph (a)(3) to read as follows:

2415.305 Proposal evaluation.

(a) * * *

(3) *Technical evaluation when tradeoffs are performed.* The TEP shall rate each proposal based on the evaluation factors specified in the solicitation. The TEP shall identify each proposal as being acceptable, unacceptable but capable of being made acceptable, or unacceptable. A proposal shall be considered unacceptable if it is so clearly deficient that it cannot be corrected through written or oral discussions. Under the tradeoff process, predetermined threshold levels of technical acceptability for proposals

shall not be employed. A technical evaluation report, which complies with FAR 15.305(a)(3), shall be prepared and signed by the technical evaluators, furnished to the Contracting Officer, and maintained as a permanent record in the official procurement file.

PART 2432—CONTRACT FINANCING

■ 15. The authority citation for part 2432 continues to read as follows:

Authority: 31 U.S.C. 3901–3905; 40 U.S.C. 121(c); 42 U.S.C. 3535(d).

Subpart 2432.7—Contract Funding

■ 16. In section 2432.703, revise paragraph (b)(1) to read as follows:

2432.703–1 General.

(b)(1) Except as described herein, a fixed-price contract may be funded incrementally only if—

(i) Sufficient funds are not available to the Department at the time of contract award or exercise of option to fully fund the contract or option; and

(ii) The contract (excluding any options) or any exercised option—

(A) Is for severable services; and

(B) Does not exceed one year in length; and

(C) Is incrementally funded using funds available (unexpired) as of the date the funds are obligated; and

(iii) If applicable, the contract uses funds available from multiple (2 or more) fiscal years and Congress has otherwise authorized incremental funding.

* * * * *

■ 17. Revise section 2432.705 to read as follows:

2432.705 Contract clauses.

(a) The Contracting Officer shall insert the clause at 2452.232–72, ''Limitation of Government's Obligation,'' in solicitations and resultant incrementally funded fixed-price contracts as authorized by 2432.703–1. The Contracting Officer shall insert the information required in the table in paragraph (b) and the notification period in paragraph (c) of the clause.

(b) The Contracting Officer shall insert the clause at 2452.232–74, ''Not To Exceed Limitation'' in all solicitations and contracts where the total estimated funds needed for the performance period are not yet obligated.

2432.705–70 [Removed]

■ 18. Remove section 2432.705–70.

PART 2437—SERVICE CONTRACTING

■ 19. The authority citation for part 2437 continues to read as follows:

Authority: 40 U.S.C. 121(c); 42 U.S.C. 3535(d).

Subpart 2437.1—Service Contracts—General

■ 20. In section 2437.110, revise paragraph (e)(2) and add paragraphs (e)(5) and (6) to read as follows:

2437.110 Solicitation provisions and contract clauses.

(e) * * *

(2) The Contracting Officer shall insert the clause at 2452.237–73, ''Conduct of Work and Technical Guidance,'' in all solicitations and contracts for services.

* * * * *

(5) The Contracting Officer shall insert the clause at 2452.237–79, ''Post Award Conference,'' in all solicitations and contracts for services when the contractor will be required to attend a post-award orientation conference. The Contracting Officer shall indicate whether the contractor must attend the conference in person or via electronic communication. The Contracting Officer shall use Alternate I when the Post Award Conference will be conducted by telephone or video conferencing.

(6) The Contracting Officer shall insert the clause at 2452.237–81, ''Labor Categories, Unit Prices Per Hour and Payment,'' in all indefinite quantity and requirements solicitations and contracts when level of effort task orders will be issued.

■ 21. Add part 2444, consisting of subpart 2444.2, to read as follows:

PART 2444—SUBCONTRACTING POLICIES AND PROCEDURES

Authority: 40 U.S.C. 121(c); 42 U.S.C. 3535(d).

Subpart 2444.2—Contract Clauses

2444.204 Contract clauses.

(a) Insert HUDAR clause 2452.244–70 Consent to Subcontract, in contracts and task orders with an estimated value exceeding $10,000,000.

PART 2452—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 22. The authority citation for part 2452 continues to read as follows:

Authority: 40 U.S.C. 121(c); 42 U.S.C. 3535(d).

Subpart 2452.2—Texts of Provisions and Clauses

§ 2452.211–70 [Removed]

■ 23. Remove section 2452.211–70.

■ 24. Revise section 2452.215–70 to read as follows:

2452.215–70 Proposal content.

As prescribed in 2415.209(a), insert a provision substantially the same as the following:

PROPOSAL CONTENT (MAR 2016)

(a) Proposals shall be submitted in two parts as described in paragraphs (c) and (d) below. Each of the parts must be complete in itself so that evaluation of each part may be conducted independently, and so the identified parts of each proposal may be evaluated strictly on its own merit. Proposals shall be submitted in the format, if any, prescribed elsewhere in this solicitation. Proposals shall be enclosed in sealed packaging and addressed to the office specified in the solicitation. The offeror's name and address, the solicitation number and the date and time specified in the solicitation for proposal submission must appear in writing on the outside of the package.

(b) The number of proposals required is an original and [*insert number*] copies of Part I, and [*insert number*] copies of Part II.

(c) *Part I—Technical Proposal.* (1) The offeror shall submit the information required in Instructions to Offerors designated under Part I—Technical Proposal.

(d) *Part II—Business Proposal.* (1) The offeror shall complete the Representations and Certifications provided in Section K of this solicitation and include them in Part II, Business Proposal.

(2) The offeror shall provide information to support the offeror's proposed costs or prices as prescribed elsewhere in Instructions to Offerors for Part II—Business Proposal.

(3) The offeror shall submit any other information required in Instructions to Offerors designated under Part II—Business Proposal.

(End of provision)

Alternate I (MAR 2016)

As prescribed in 2415.209(a), if the proposed contract requires work on, or access to, sensitive automated systems as described in 2452.239–70, add the following subparagraph, numbered sequentially, to paragraph (d):

The offeror shall describe in detail how the offeror will maintain the security of automated systems as required by clause 2452.239–70 in Section I of this solicitation and include it in Part II, Business Proposal.

(End of Provision)

Alternate II (MAR 2016)

As prescribed in 2415.209(a), add the following paragraph (e) when the size of any proposal Part I or Part II will be limited:

(e) *Size limits of Parts I and II.* (1) Offerors shall limit submissions of Parts I and II of their initial proposals to the page limitations identified in the Instructions to Offerors. Offerors are cautioned that, if any Part of their proposal exceeds the stipulated limits for that Part, the Government will evaluate only the information contained in the pages up through the permitted number. Pages beyond that limit will not be evaluated.

(2) A page shall consist of one side of a single sheet of 8½′ x 11″ paper, single spaced, using not smaller than 12 point type font, and having margins at the top, bottom,

and sides of the page of no less than one inch in width.

(3) Any exemptions from this limitation are stipulated under the Instructions to Offerors.

(4) Offerors are encouraged to use recycled paper and to use both sides of the paper (see the FAR clause at 52.204–4).
(End of Provision)

■ 25. Revise section 2452.232–70 to read as follows:

2452.232–70 Payment schedule and invoice submission (Fixed-Price).

As prescribed in HUDAR Section 2432.908(c)(2), insert the following clause in all fixed price solicitations and contracts where invoicing and payments will NOT be made through the Department of Treasury's Bureau of Fiscal Services Invoice Processing Platform (IPP) system:

PAYMENT SCHEDULE AND INVOICE SUBMISSION (FIXED–PRICE) (MAR 2016)

(a) *Payment schedule.* Payment of the contract price (see Section B of the contract) will be made upon completion and acceptance of all work unless a partial payment schedule is included below.

[Contracting Officer insert schedule information]:

Partial payment number	Applicable contract deliverable	Delivery date	Payment amount
1. [ ]. 2. [ ]. 3. [ ].			

[*Continue as necessary*]

(b) *Submission of invoices.* (1) The Contractor shall submit invoices as follows: original to the payment office and one copy each to the Contracting Officer and a copy to the Government Technical Representative (GTR) identified in the contract. To constitute a proper invoice, the invoice must include all items required by the FAR clause at 52.232–25, ''Prompt Payment.''

(2) To assist the government in making timely payments, the contractor is also requested to include on each invoice the appropriation number shown on the contract award document (*e.g.,* block 14 of the Standard Form (SF) 26, block 21 of the SF–33, or block 25 of the SF–1449). The contractor is also requested to clearly indicate on the mailing envelope that an invoice is enclosed.

(c) *Contractor remittance information.* The contractor shall provide the payment office with all information required by other payment clauses or other supplemental information (*e.g.,* contracts for commercial services) contained in this contract.

(d) *Final invoice payment.* The final invoice will not be paid prior to certification by the Contracting Officer that all work has been completed and accepted.
(End of clause)

Alternate I (MAR 2016).

As prescribed in HUDAR section 2432.908(c)(2), replace paragraph (b)(1) and (b)(2) with the following Alternate I paragraphs to HUDAR Clause 2452.232–70 Payment Schedule and Invoice Submission (Fixed-price) for fixed price solicitations and contracts other than performance-based under which performance-based payments will be used and where invoices are to be submitted electronically by email but will not be paid through the Department of Treasury's Bureau of Fiscal Services Invoice Processing Platform (IPP) system:

(b) *Submission of invoices.* (1) The contractor shall submit invoices electronically via email to the email addresses shown on the contract award document (*e.g.,* block 12 of the Standard Form (SF) 26, block 25 of the SF–33, or block 18a of the SF–1449) and carbon copy the Contracting Officer and the Government Technical Representative (GTR). To constitute a proper invoice, the invoice must include all items required by the FAR clause at 52.232–25, ''Prompt Payment.'' The contractor shall clearly include in the Subject line of the email: INVOICE INCLUDED; CONTRACT/ORDER #: _____, INVOICE NUMBER _____ and Contract Line Item Number(s) _____.

(2) To assist the government in making timely payments, the contractor is also requested to include on each invoice the appropriation number shown on the contract award document (*e.g.,* block 14 of the Standard Form (SF) 26, block 21 of the SF–33, or block 25 of the SF–1449).
(End of Alternate I)

Alternate II (MAR 2016).

As prescribed in HUDAR Section 2432.908(c)(2), replace paragraphs (b)(1) and (2) of the HUDAR Clause 2452.232–70 Payment Schedule and Invoice Submission (Fixed-price) with the following Alternate II language in all fixed price solicitations and contracts when requiring invoices to be submitted electronically to the Department of Treasury's Bureau of Fiscal Services Invoice Processing Platform (IPP) system:

(b) *Submission of invoices.* (1) The Contractor shall obtain access and submit invoices to the Department of Treasury Bureau of Fiscal Services' Invoice Platform Processing System via the Web at URL: *https://arc.publicdebt.treas.gov/ipp/fsippqrg.htm* in accordance with the instructions on the Web site. To constitute a proper invoice, the invoice must include all items required by the FAR clause at 52.232–25, ''Prompt Payment.''

(2) To assist the government in making timely payments, the contractor is also requested to include on each invoice the appropriation number shown on the contract award document (*e.g.,* block 14 of the Standard Form (SF) 26, block 21 of the SF–33, or block 25 of the SF–1449).
(End of Alternate II)

■ 26. Revise section 2452.232–71 to read as follows:

2452.232–71 Voucher submission (cost-reimbursement, time-and-materials, and labor-hour).

As prescribed in HUDAR Section 2432.908(c)(3), insert the following clause in all cost reimbursable, time-and-materials, and labor-hour solicitations and contracts where vouchering and payments will NOT be made through the Department of Treasury's Bureau of Fiscal Services Invoice Processing Platform (IPP) system:

VOUCHER SUBMISSION (COST-REIMBURSEMENT, TIME-AND-MATERIALS, AND LABOR HOUR) (MAR 2016)

(a) *Voucher submission.* (1) The contractor shall submit, _____ [Contracting Officer insert billing period, *e.g.,* monthly], an original and two copies of each voucher. In addition to the items required by the clause at FAR 52.232–25, Prompt Payment, the voucher shall show the elements of cost for the billing period and the cumulative costs to date. The Contractor shall submit all vouchers, except for the final voucher, as follows: original to the payment office and one copy each to the Contracting Officer and the Government Technical Representative (GTR) identified in the contract. The contractor shall submit all copies of the final voucher to the Contracting Officer.

(2) To assist the government in making timely payments, the contractor is requested to include on each voucher the applicable appropriation number(s) shown on the award or subsequent modification document (*e.g.,* block 14 of the Standard Form (SF) 26, or block 21 of the SF–33). The contractor is also requested to clearly indicate on the mailing envelope that a payment voucher is enclosed.

(b) *Contractor remittance information.* (1) The Contractor shall provide the payment office with all information required by other payment clauses contained in this contract.

(2) For time-and-materials and labor-hour contracts, the Contractor shall aggregate vouchered costs by the individual task for which the costs were incurred and clearly identify the task or job.

(c) Final Payment. The final payment shall not be made until the Contracting Officer has certified that the contractor has complied with all terms of the contract.
(End of clause)

Alternate I (MAR 2016).

As prescribed in HUDAR section 2432.908(c)(3), replace paragraphs (a)(1) and (2) with the following Alternate I paragraphs to HUDAR Clause 2452.232–71, Voucher Submission in time and material, cost-reimbursable and labor hour solicitations and contracts other than performance-based under which performance-based payments will be used and where invoices are to be submitted electronically by email but will not be paid through the Department of Treasury's Bureau of Fiscal Services Invoice Processing Platform (IPP) system:

(a) *Voucher submission.* (1) The contractor shall submit vouchers electronically via email to the email addresses shown on the contract award document (*e.g.,* block 12 of the Standard Form (SF) 26, block 25 of the SF–33, or block 18a of the SF–1449) and carbon copy the Contracting Officer and the Government Technical Representative (GTR). In addition to the items required by the clause at FAR 52.232- 25, Prompt Payment, the voucher shall show the elements of cost for the billing period and the cumulative

costs to date. The contractor shall clearly include in the Subject line of the email: VOUCHER INCLUDED; CONTRACT/ORDER #: _____, VOUCHER NUMBER _____ and Contract Line Item Number(s) _____.

(2) To assist the government in making timely payments, the contractor is requested to include on each voucher the applicable appropriation number(s) shown on the award or subsequent modification document (*e.g.,* block 14 of the Standard Form (SF) 26, or block 21 of the SF–33).

(End of *Alternate I*)

Alternate II (MAR 2016).

As prescribed in HUDAR section 2432.908(c)(3), replace paragraphs (a)(1) and (2) of the HUDAR Clause 2452.232–71 Voucher Submission with the following Alternate II language in all cost-reimbursement, time-and-materials, and labor-hour type solicitations and contracts when requiring vouchers to be submitted electronically to the Department of Treasury's Bureau of Fiscal Services Invoice Processing Platform (IPP) system:

(a) *Voucher submission.* (1) The Contractor shall obtain access and submit invoices to the Department of Treasury Bureau of Fiscal Services' Invoice Platform Processing System via the Web at URL: *https://arc.publicdebt.treas.gov/ipp/fsippqrg.htm* in accordance with the instructions on the Web site. To constitute a proper voucher, in addition to the items required by the clause at FAR 52.232–25, Prompt Payment, the voucher shall show the elements of cost for the billing period and the cumulative costs to date.

(2) To assist the government in making timely payments, the contractor is requested to include on each voucher the applicable appropriation number(s) shown on the award or subsequent modification document (*e.g.,* block 14 of the Standard Form (SF) 26, or block 21 of the SF–33).

(End of Alternate II)

■ 27. Add section 2452.232–74 to read as follows:

2452.232–74 Not to exceed limitation.

As prescribed in 2432.705(b), insert the following clause in all solicitations and contracts where the total estimated funds needed for the performance of the contract are not yet obligated.

NOT TO EXCEED LIMITATION (MAR 2016)

(a) The total estimated funds needed for the performance of this contract are not yet obligated. The total obligation of funds available at this time for performance of work or deliveries is [insert amount]. The Government shall not order, nor shall the contractor be authorized or required to accept orders for, or perform work on such orders (or perform any other work on this contract) or make deliveries that exceed the stated funding limit.

(b) When funding is available, the Government may unilaterally increase the amount obligated through contract funding modification(s) until the full contract value has been obligated. If a contract funding modification is not in place by the time the performance of the work or deliveries have reached the stated funding limit, the contractor must stop performing services and deliveries and may not start again until the contractor is notified through a contract funding modification that funds are available to continue services and deliveries.

(End of clause)

■ 28. Revise section 2452.237–73 to read as follows:

2452.237–73 Conduct of work and technical guidance.

As prescribed in 2437.110(e)(2), insert the following clause in all contracts for services:

CONDUCT OF WORK AND TECHNICAL GUIDANCE (MAR 2016)

(a) The Contracting Officer will provide the contractor with the name and contact information of the Government Technical Representative (GTR) assigned to this contract. The GTR will serve as the contractor's liaison with the Contracting Officer with regard to the conduct of work. The Contracting Officer will notify the contractor in writing of any change to the current GTR's status or the designation of a successor GTR.

(b) The GTR for liaison with the contractor as to the conduct of work is [to be inserted at time of award] or a successor designated by the Contracting Officer. The Contracting Officer will notify the contractor in writing of any change to the current GTR's status or the designation of a successor GTR.

(c) The GTR will provide guidance to the contractor on the technical performance of the contract. Such guidance shall not be of a nature which:

(1) Causes the contractor to perform work outside the statement of work or specifications of the contract;

(2) Constitutes a change as defined in FAR 52.243 1;

(3) Causes an increase or decrease in the cost of the contract;

(4) Alters the period of performance or delivery dates; or

(5) Changes any of the other express terms or conditions of the contract.

(d) The GTR will issue technical guidance in writing or, if issued orally, he/she will confirm such direction in writing within five calendar days after oral issuance. The GTR may issue such guidance via telephone, facsimile (fax), or electronic mail.

(e) Other specific limitations [to be inserted by Contracting Officer]:

(f) The contractor shall promptly notify the Contracting Officer whenever the contractor believes that guidance provided by any government personnel, whether or not specifically provided pursuant to this clause, is of a nature described in paragraph (b) above.

(End of clause)

■ 29. In section 2452.237–77, revise the introductory text, add paragraph (a)(1), and revise paragraph (c)(1)(A) to read as follows:

2452.237–77 Temporary closure of HUD facilities.

As prescribed in 2437.110(e)(4), insert the following clause:

Temporary Closure of HUD Facilities (MAR 2016)

(a)(1) The Department of Housing and Urban Development observes the following days as holidays—

New Year's Day
Martin Luther King's Birthday
Washington's Birthday
Memorial Day
Independence Day
Labor Day
Columbus Day
Veterans Day
Thanksgiving Day
Christmas Day

Any other day designated by Federal law, Executive Order or Presidential Proclamation.

* * * * *

(c) * * *

(1) * * *

(A) The deduction rate in dollars per day will be equal to the per month contract price divided by the number of business days in each month.

* * * * *

■ 30. Add section 2452.237–79 to read as follows:

2452.237–79 Post award conference.

As prescribed in 2437.110(e)(5), insert the following clause in all contracts for services:

POST AWARD CONFERENCE (MAR 2016)

The Contractor shall be required to attend a post-award conference on DATE_____ to be held at ADDRESS_____, unless other arrangements are made. All Contractors must have a valid ID for security clearance into the building.

(End of clause)

POST AWARD CONFERENCE (MAR 2016)

Alternate I

If the conference will be conducted via telephone or video conferencing, substitute the following for the first and second sentences:

The conference will be conducted via [*telephone, video conferencing*]. The Contracting Officer or designee will provide the contractor with the date, time and contact information for the conference.

(End of Alternate I)

■ 31. Add section 2452.237–81 to read as follows:

2452.237–81 Labor categories, unit prices per hour and payment.

As prescribed in 2437.110(e)(6), insert the following clause in all indefinite quantity and requirements solicitations and contracts when level of effort task orders will be issued.

LABOR CATEGORIES, UNIT PRICES PER HOUR AND PAYMENT (MAR 2016)

The contractor shall provide the following types of labor at the corresponding unit price

per hour in accordance with the terms of this contract:

_____

_____

_____

The unit price per hour is inclusive of the hourly wage plus any applicable labor overhead, General and Administrative (G&A) expenses, and profit. Payment shall be made to the contractor upon delivery to, and acceptance by, the Government office requesting services. The total amounts billed shall be derived by multiplying the actual number of hours worked per category by the corresponding price per hour.
(End of clause)

■ 32. Revise section 2452.239–70 to read as follows:

2452.239–70 Access to HUD systems.

As prescribed in 2439.107(a), insert the following clause:

ACCESS TO HUD SYSTEMS (MAR 2016)

(a) *Definitions:* As used in this clause—

''Access'' means the ability to obtain, view, read, modify, delete, and/or otherwise make use of information resources.

''Application'' means the use of information resources (information and information technology) to satisfy a specific set of user requirements (see OMB Circular A–130).

''Contractor employee'' means an employee of the prime contractor or of any subcontractor, affiliate, partner, joint venture, or team members with which the contractor is associated. It also includes consultants engaged by any of those entities.

''Mission-critical system'' means an information technology or telecommunications system used or operated by HUD or by a HUD contractor, or organization on behalf of HUD, that processes any information, the loss, misuse, disclosure, or unauthorized access to, or modification of which would have a debilitating impact on the mission of the agency.

''NACI'' means a National Agency Check with Inquiries, the minimum background investigation prescribed by OPM.

''PIV Card'' means the Personal Identity Verification (PIV) Card, the Federal Government-issued identification credential (*i.e.,* identification badge).

''Sensitive information'' means any information of which the loss, misuse, or unauthorized access to, or modification of, could adversely affect the national interest, the conduct of federal programs, or the privacy to which individuals are entitled under section 552a of title 5, United States Code (the Privacy Act), but which has not been specifically authorized under criteria established by an Executive Order or an Act of Congress to be kept secret in the interest of national defense or foreign policy.

''System'' means an interconnected set of information resources under the same direct management control, which shares common functionality. A system normally includes hardware, software, information, data, applications, communications, and people (see OMB Circular A–130). System includes any system owned by HUD or owned and operated on HUD's behalf by another party.

(b) *General.* (1) The performance of this contract requires contractor employees to have access to a HUD system or systems. All such employees who do not already possess a current PIV Card acceptable to HUD shall be required to provide personal background information, undergo a background investigation (NACI or other OPM-required or approved investigation), including an FBI National Criminal History Fingerprint Check, and obtain a PIV Card prior to being permitted access to any such system in performance of this contract. HUD may accept a PIV Card issued by another Federal Government agency but shall not be required to do so. No contractor employee will be permitted access to any HUD system without a PIV Card.

(2) All contractor employees who require access to mission-critical systems or sensitive information contained within a HUD system or application(s) are required to have a more extensive background investigation. The investigation shall be commensurate with the risk and security controls involved in managing, using, or operating the system or applications(s).

(c) *Citizenship-related requirements.* Each affected contractor employee as described in paragraph (b) of this clause shall be:

(1) A United States (U.S.) citizen; or,

(2) A national of the United States (see 8 U.S.C. 1408); or,

(3) An alien lawfully admitted into, and lawfully permitted to be employed in the United States, provided that for any such individual, the Government is able to obtain sufficient background information to complete the investigation as required by this clause. Failure on the part of the contractor to provide sufficient information to perform a required investigation or the inability of the Government to verify information provided for affected contractor employees will result in denial of their access.

(d) *Background investigation process.* (1) The Government Technical Representative (GTR) shall notify the contractor of those contractor employee positions requiring background investigations.

(i) For each contractor employee requiring access to HUD information systems, the contractor shall submit the following properly completed forms: Standard Form (SF) 85, ''Questionnaire for Non-Sensitive Positions,'' FD 258 (Fingerprint Chart), and a partial Optional Form (OF) 306 (Items 1, 2, 6, 8–13, 16, and 17).

(ii) For each contractor employee requiring access to mission-critical systems and/or sensitive information contained within a HUD system and/or application(s), the contractor shall submit the following properly completed forms: SF–85P, ''Questionnaire for Public Trust Positions;'' FD 258; and a Fair Credit Reporting Act form (authorization for the credit-check portion of the investigation). Contractor employees shall not complete the Medical Release behind the SF–85P.

(iii) The SF–85, 85P, and OF–306 are available from OPM's Web site, *http://www.opm.gov.* The GTR will provide all other forms that are not obtainable via the Internet.

(2) The contractor shall deliver the forms and information required in paragraph (d)(1) of this clause to the GTR.

(3) Affected contractor employees who have had a federal background investigation without a subsequent break in federal employment or federal contract service exceeding 2 years may be exempt from the investigation requirements of this clause subject to verification of the previous investigation. For each such employee, the contractor shall submit the following information in lieu of the forms and information listed in paragraph (d)(1) of this clause: employee's full name, Social Security number, and place and date of birth.

(4) The investigation process shall consist of a range of personal background inquiries and contacts (written and personal) and verification of the information provided on the investigative forms described in paragraph (d)(1) of this clause.

(5) Upon completion of the investigation process, the GTR will notify the contractor if any contractor employee is determined to be unsuitable to have access to the system(s), application(s), or information. Such an employee may not be given access to those resources. If any such employee has already been given access pending the results of the background investigation, the contractor shall ensure that the employee's access is revoked immediately upon receipt of the GTR's notification.

(6) Failure of the GTR to notify the contractor (see subparagraph (d)(1)) of any employee who should be subject to the requirements of this clause and is known, or should reasonably be known, by the contractor to be subject to the requirements of this clause, shall not excuse the contractor from making such employee(s) known to the GTR. Any such employee who is identified and is working under the contract, without having had the appropriate background investigation or furnished the required forms for the investigation, shall cease to perform such work immediately and shall not be given access to the system(s)/application(s) described in paragraph (b) of this clause until the contractor has provided the investigative forms required in paragraph (d)(1) of this clause for the employee to the GTR.

(7) The contractor shall notify the GTR in writing whenever a contractor employee for whom a background investigation package was required and submitted to HUD, or for whom a background investigation was completed, terminates employment with the contractor or otherwise is no longer performing work under this contract that requires access to the system(s), application(s), or information. The contractor shall provide a copy of the written notice to the Contracting Officer.

(e) *PIV Cards.* (1) HUD will issue a PIV Card to each contractor employee who is to be given access to HUD systems and does not already possess a PIV Card acceptable to HUD (see paragraph (b) of this clause). HUD will not issue the PIV Card until the contractor employee has successfully cleared an FBI National Criminal History Fingerprint Check, and HUD has initiated the background investigation for the contractor employee. Initiation is defined to mean that

all background information required in paragraph (d)(1) of this clause has been delivered to HUD. The employee may not be given access prior to those two events. HUD may issue a PIV Card and grant access pending the completion of the background investigation. HUD will revoke the PIV Card and the employee's access if the background investigation process (including adjudication of investigation results) for the employee has not been completed within 6 months after the issuance of the PIV Card.

(2) PIV Cards shall identify individuals as contractor employees. Contractor employees shall display their PIV Cards on their persons at all times while working in a HUD facility, and shall present cards for inspection upon request by HUD officials or HUD security personnel.

(3) The contractor shall be responsible for all PIV Cards issued to the contractor's employees and shall immediately notify the GTR if any PIV Card(s) cannot be accounted for. The contractor shall promptly return PIV Cards to HUD as required by the FAR clause at 52.204–9. The contractor shall notify the GTR immediately whenever any contractor employee no longer has a need for his/her HUD-issued PIV Card (*e.g.,* the employee terminates employment with the contractor, the employee's duties no longer require access to HUD systems). The GTR will instruct the contractor as to how to return the PIV Card. Upon expiration of this contract, the GTR will instruct the contractor as to how to return all HUD-issued PIV Cards not previously returned. Unless otherwise directed by the Contracting Officer, the contractor shall not return PIV Cards to any person other than the GTR.

(f) *Control of access.* HUD shall have and exercise full and complete control over granting, denying, withholding, and terminating access of contractor employees to HUD systems. The GTR will notify the contractor immediately when HUD has determined that an employee is unsuitable or unfit to be permitted access to a HUD system. The contractor shall immediately notify such employee that he/she no longer has access to any HUD system, physically retrieve the employee's PIV Card from the employee, and provide a suitable replacement employee in accordance with the requirements of this clause.

(g) *Incident response notification.* An incident is defined as an event, either accidental or deliberate, that results in unauthorized access, loss, disclosure, modification, or destruction of information technology systems, applications, or data. The contractor shall immediately notify the GTR and the Contracting Officer of any known or suspected incident, or any unauthorized disclosure of the information contained in the system(s) to which the contractor has access.

(h) *Nondisclosure of information.* (1) Neither the contractor nor any of its employees shall divulge or release data or information developed or obtained during performance of this contract, except to authorized government personnel with an established need to know, or upon written approval of the Contracting Officer. Information contained in all source documents and other media provided by HUD is the sole property of HUD.

(2) The contractor shall require that all employees who may have access to the system(s)/applications(s) identified in paragraph (b) of this clause sign a pledge of nondisclosure of information. The employees shall sign these pledges before they are permitted to perform work under this contract. The contractor shall maintain the signed pledges for a period of 3 years after final payment under this contract. The contractor shall provide a copy of these pledges to the GTR.

(i) *Security procedures.* (1) The Contractor shall comply with applicable federal and HUD statutes, regulations, policies, and procedures governing the security of the system(s) to which the contractor's employees have access including, but not limited to:

(i) The Federal Information Security Management Act (FISMA) of 2002;

(ii) OMB Circular A–130, Management of Federal Information Resources, Appendix III, Security of Federal Automated Information Resources;

(iii) HUD Handbook 2400.25, Information Technology Security Policy;

(iv) HUD Handbook 732.3, Personnel Security/Suitability;

(v) Federal Information Processing Standards 201 (FIPS 201), Sections 2.1 and 2.2;

(vi) Homeland Security Presidential Directive 12 (HSPD–12); and

(vii) OMB Memorandum M–05–24, Implementing Guidance for HSPD–12. The HUD Handbooks are available online at: *http://www.hud.gov/offices/adm/hudclips/* or from the GTR.

(2) The contractor shall develop and maintain a compliance matrix that lists each requirement set forth in paragraphs, (b) through (h), (i)(1), and (m) of this clause with specific actions taken, and/or procedures implemented, to satisfy each requirement. The contractor shall identify an accountable person for each requirement, the date upon which actions/procedures were initiated/completed, and certify that information contained in this compliance matrix is correct. The contractor shall ensure that information in this compliance matrix is complete, accurate, and up-to-date at all times for the duration of this contract. Upon request, the contractor shall provide copies of the current matrix to the Contracting Officer and/or government technical representative.

(3) The Contractor shall ensure that its employees, in performance of the contract, receive annual training (or once if the contract is for less than one year) in HUD information technology security policies, procedures, computer ethics, and best practices in accordance with HUD Handbook 2400.25.

(j) *Access to contractor's systems.* The Contractor shall afford authorized personnel, including the Office of Inspector General, access to the Contractor's facilities, installations, operations, documentation (including the compliance matrix required under paragraph (i)(2) of this clause), databases, and personnel used in performance of the contract. Access shall be provided to the extent required to carry out, but not limited to, any information security program activities, investigation, and audit to safeguard against threats and hazards to the integrity, availability, and confidentiality of HUD data and systems, or to the function of information systems operated on behalf of HUD, and to preserve evidence of computer crime.

(k) *Contractor compliance with this clause.* Failure on the part of the contractor to comply with the terms of this clause may result in termination of this contract for default.

(l) *Physical access to Federal Government facilities.* The contractor and any subcontractor(s) shall also comply with the requirements of HUDAR clause 2452.237–75 when the contractor's or subcontractor's employees will perform any work under this contract on site in a HUD or other Federal Government facility.

(m) *Subcontracts.* The contractor shall incorporate this clause in all subcontracts where the requirements specified in paragraph (b) of this section are applicable to performance of the subcontract.

(End of clause)

■ 33. Add section 2452.244–70 to read as follows:

2452.244–70 Consent to subcontract.

As prescribed in HUDAR Section 2444.204(a), insert the following clause in contracts and task orders with an estimated value exceeding $10,000,000.

Consent to Subcontract (Mar 2016)

(a) Due to the substantive nature of subcontracting that may be necessary during performance of this contract, the Contracting Officer has determined that a consent for individual subcontracts is required to adequately protect the Government. Consent is required for –

(1) Cost-reimbursement, time-and-materials, or labor-hour subcontracts, or combination of such, in excess of $150,000 per year to a single subcontractor or consultant;

(2) Fixed price subcontracts in excess of 25% of the annual contract value to a single subcontractor or consultant.

(b) If subcontracts meeting the above parameters were not provided during the negotiation of the original contract award, the Contractor shall obtain post award consent and provide signed copies of the subcontract agreements within 10 days of consent.

(c) The Contractor shall provide the Contracting Officer with 30 days advance notification prior to changing subcontractors or existing subcontracting agreements, unless precluded due to circumstances beyond the control of the contractor. If advance notification is not feasible, the Contractor shall provide notification to the Contracting Officer no later than 10 days after the Contractor identifies the need to replace a subcontractor. The notification shall include a copy of the proposed new subcontracting agreement. Upon consent and finalization of the final subcontract agreement, the Contractor shall provide a copy of the signed agreement to the Contracting Officer.

(d) The Contracting Officer's consent to a subcontract does not constitute a determination of the acceptability of the subcontract terms or price, or of the allowability of costs.

(e) If not required elsewhere in the contract, no more than 30 calendar days after award, the Contractor shall provide a separate continuity of services plan to the Contracting Officer that will ensure services performed by subcontractors that cost more than 25% of the cost/price of the contract will continue uninterrupted in the event of performance problems or default by the subcontractor.

(End of clause)

Subpart 2452.3—Matrix

■ 34. Add subpart 2452.3, consisting of section 2452.3, to read as follows:

2452.3 Provision and clause matrix.

BILLING CODE 4210–67–P

HUDAR Matrix.

Key:					
Type of Contract:					
P/C	=	Provision or Clause	DDR	=	Dismantling, Demolition, or Removal of Improvements
			A&E	=	Architect-Engineering
UCF	=	Uniform Contract Format Section, when Applicable	FAC	=	Facilities
FP SUP	=	Fixed-Price Supply	IND DEL	=	Indefinite Delivery
CR SUP	=	Cost-Reimbursement Supply	TRN	=	Transportation
FP R&D	=	Fixed-Price Research & Development	SAP	=	Simplified Acquisition Procedures (excluding micro-purchase)
CR R&D	=	Cost Reimbursement Research & Development	UTL SVC	=	Utility Services
FP SVC	=	Fixed-Price Service	CI	=	Commercial Items
CR SVC	=	Cost Reimbursement Service			
FP CON	=	Fixed-Price Construction	**Contract Purpose:**		
CR CON	=	Cost Reimbursement Construction	R	=	Required
T&M LH	=	Time & Material/Labor Hours	RA	=	Required when Applicable
LMV	=	Leasing of Motor Vehicles	O	=	Optional
COM SVC	=	Communication Services	□□	=	Revision

	PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																					
PROVISION OR CLAUSE	PRESCRIBED IN	P/C	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
2452.201-70 Coordination of Data Collection Activities	2401.106-70	C	I	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA
2452.203-70 Prohibition Against the Use of Federal Employees	2403.670	C	I	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
2452.204-70 Preservation of, and Access to, Contract Records (Tangible and Electronically Stored Information (ESI) Formats)	2404.7001	C	I																			
Alternate I	2404.7001	C	I		R		R		R		R	RA			RA	RA	RA	RA	RA		RA	
Alternate I I	2404.7001	C	I	R		R		R		R		RA		RA	RA	RA	RA	RA	RA		RA	R
2452.208-71 Reproduction of Reports	2408.802-70	C	I	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA
PROVISION OR CLAUSE	PRESCRIBED IN	P/C	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
2452.209-70 Potential Organizational Conflicts of Interest	2409.507-1	P	L	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA		RA	RA

PROVISION OR CLAUSE	PRESCRIBED IN	P/C	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
2452.209-71 Limitation on Future Contracts	2409.507-2	C	I			RA	RA	RA	RA	RA	RA	RA		RA	RA	RA		RA				RA
2452.209-72 Organizational Conflicts of Interest	2409.507-2	C	I			RA	RA	RA	RA	RA	RA	RA		RA	RA	RA	RA	RA	RA		RA	RA
2452.215-70 Proposal Content	2415.209(a)	P	L			RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA		RA	RA
Alternate I	2415.209(a)	P	L	RA	RA			RA	RA			RA	RA	RA	RA		RA	RA	RA		RA	RA
Alternate II	2415.209(a)	P	L			RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA		RA	RA
Alternate III	2415.209(a)	P	L	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA		RA	RA
2452.215-71 Relative Importance of Technical Evaluation Factors to Cost or Price	2415.209(a)(2)	P	M	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA		RA	RA
2452.215-72 Evaluation of Small Business Participation	2415.370	P	M	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA		RA	RA
2452.216-70 Estimated Cost, Base Fee and Award fee	2416.406(e)(1)	C	I		RA		RA		RA													
2452.216-71 Award Fee	2416.406(e)(2)	C	I	RA		RA		RA		RA												
2452.216-72 Determination of Award Fee Earned	2416.406(e)(3)	C	I	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA
2452.216-73 Performance evaluation plan	2416.406(e)(3)	C	I	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA
2452.216-74 Distribution of award fee	2416.406(e)(3)	C	I	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA
Alternate I	2416.406(e)(3)	C	I	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA
2452.216-75 Unpriced Task Orders	2416.506-70	C	I	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA
2452.216-76 Minimum and Maximum Quantities and Amounts for Order	2416.506-70(b)	C	I	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA
2452.216-77 Estimated Quantities - Requirements Contract	2416.506-70(c)	P	I	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA

2452.216-78 Ordering Procedures	2416.506-70(d)	P	I	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA
Alternate I	2416.506-70(d)	P	I	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA
Alternate II	2416.506-70(d)	P	I	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA
2452.216-79 Estimated Cost (No Fee)	2416.307(b)	C	I		RA		RA		RA		RA											
2452.216-80 Estimated Cost and Fixed-Fee	2416.307(b)	C	I		RA		RA		RA		RA											
2452.219-70 Small Business Subcontracting Plan Compliance	2419.708(d)	P	I	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA		RA	RA
2452.219-71 Notification of competition limited to eligible 8(a) concerns - Alternate III to FAR 52.219-18	2419.811-3(d)(3)	C	I																			
2452.219-72 Section 8(a) Direct Awards (Deviation)	2419.811-3(f)	C	I																			
2452.219-73 Incorporation of Subcontracting Plan	2419.708(b)	C	I	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA		RA	RA
2452.219-74 Small Business Subcontracting Goals	2419.708(b)	P	L	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O		O	O
PROVISION OR CLAUSE	**PRESCRIBED IN**	**P/C**	**UCF**	**FP SUP**	**CR SUP**	**FP R&D**	**CR R&D**	**FP SVC**	**CR SVC**	**FP CON**	**CR CON**	**T&M LH**	**LMV**	**COM SVC**	**DDR**	**A&E**	**FAC**	**IND DEL**	**TRN**	**SAP**	**UTL SVC**	**CI**
2452.222-70 Accessibility of meetings, conferences, and seminars to persons with disabilities	2422.1408(c)	C	I			RA	RA	RA	RA	RA	RA	RA		RA	RA	RA	RA	RA			RA	RA
2452.227-70 Government Information	2427.470	C	I			RA	RA	RA	RA	RA	RA	RA		RA	RA	RA	RA	RA	RA	RA	RA	RA
Alternate I	2427.470	C	I			RA	RA	RA	RA	RA	RA	RA		RA	RA	RA	RA	RA	RA	RA	RA	RA
2452.232-70 Payment Schedule and Invoice Submission (Fixed-Price)	2432.908(c)(2)	C	I	R		R		R		R												
Alternate I	2432.908(c)(2)	C	I	RA		RA		RA		RA												
Alternate II	2432.908(c)(2)	C	I	RA		RA		RA		RA												
2452.232-71	2432.908(c)(3)	C	I		R		R		R		R	R										

Voucher Submission (Cost-Reimbursement)																						
Alternate I	2432.908(c)(3)	C	I		RA		RA		RA		RA	RA										
Alternate II	2432.908(c)(3)	C	I		RA		RA		RA		RA	RA										
2452.232-72 Limitation of Government's Obligation	2432.705-70	C	I	RA		RA		RA		RA												
2452.232-73 Constructive Acceptance Period	2432.908(c)(1)	C	I	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA
2452.232-74 Not to Exceed Limitation	2432.705(b)	C	I	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA
2452.233-70 Review of Contracting Officer Protest Decisions	2433.106	P	L	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R		R	R
2452.237-70 Key Personnel	2437.110(e)(1)	C	I		RA	RA	RA	RA	RA	RA	RA	RA		RA	RA	RA	RA	RA	RA		RA	RA
2452.237-73 Conduct of Work and Technical Guidance	2437.110(e)(2)	C	I			RA	RA	R	R	R	R	R		R	R	R	R	RA	RA	RA	R	RA
2452.237-75 Access to HUD Facilities	2437.110(e)(3)	C	I	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA
2452.237-77 Temporary Closure of HUD Facilities	2437.110(e)(4)	C	I			RA	RA	RA	RA	RA	RA	RA		RA	RA	RA	RA	RA	RA	RA	RA	RA
2452.237-79—Post-Award Conference	2437.110(e)(5)	C	I			RA	RA	RA	RA	RA	RA	RA		RA	RA	RA	RA	RA	RA	RA	RA	RA
Alternate I	2437.110(e)(5)	C	I			RA	RA	RA	RA	RA	RA	RA		RA	RA	RA	RA	RA	RA	RA	RA	RA
2452.237-81 Labor Categories, Unit Prices Per Hour and Payment	2437.110(e)(6)	C	I			RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	
Provision or Clause	**Prescribed In**	**P/C**	**UCF**	**FP SUP**	**CR SUP**	**FP R&D**	**CR R&D**	**FP SVC**	**CR SVC**	**FP CON**	**CR CON**	**T&M LH**	**LMV**	**COM SVC**	**DDR**	**A&E**	**FAC**	**IND DEL**	**TRN**	**SAP**	**UTL SVC**	**CI**
2452.239-70 Access to HUD Systems	2439.107(a)	C	I			RA	RA	RA	RA	RA	RA	RA		RA	RA	RA	RA	RA	RA	RA	RA	RA
2452.239-71	2439.107(b)	C	I	RA	RA	RA	RA	RA	RA			RA		RA				RA		RA		RA

Information Technology Virus Security																						
2452.242-70 Indirect costs	2442.705-70	C	I		RA		RA		RA		RA	RA										
2452.242-71 Contract Management System	2442.1107	C	F				RA		RA		RA	RA		RA	RA	RA		RA		O	RA	RA
Alternate I	2442.1107	C	F			RA		RA		RA		RA		RA	RA	RA		RA		O	RA	RA
2452.244-70 Consent to Subcontract	2444.204(a)	C	I	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA
2452.246-70 Inspection and acceptance	2446.502-70	C	E	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
2452.251-70 Contractor Employee Travel	2451.7001	C	I				RA		RA		RA	RA		RA	RA	RA		RA			RA	

Dated: March 1, 2016.

Nani A. Coloretti,

Deputy Secretary.

[FR Doc. 2016–05212 Filed 3–14–16; 8:45 am]

BILLING CODE 4210–67–C

Proposed Rules

Federal Register
Vol. 81, No. 50
Tuesday, March 15, 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 ENERGY

10 CFR Parts 430

[Docket Number EERE–2013–BT–STD–0051]

RIN 1904–AD09

Energy Conservation Program: Energy Conservation Standards for General Service Lamps

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of a public webinar.

SUMMARY: This document announces a public webinar to review the shipments model used in the analysis of the General Service Lamp notice of proposed rulemaking.

DATES: The teleconference will be held on March 23, 2016 at 1 p.m. EST until 3 p.m. EST.

ADDRESSES: Webinar information is posted on the General Service Lamps Web site *https://www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=4.*

FOR FURTHER INFORMATION CONTACT:
Ms. Lucy deButts, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–1604. Email: *gsl@ee.doe.gov.*
Ms. Celia Sher, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–6122. Email: *celia.sher@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: The U.S Department of Energy (DOE) will examine the shipments model used in the analysis of the General Service Lamp notice of proposed rulemaking. Key equations used in the shipments model will be presented, and their implementation in the modeling software will be discussed. The webinar will also include a few demonstrations of calculations conducted by the shipments software. Members of the public are welcome to participate in the webinar and comment on the use of DOE's analytical tools. Register for the webinar at *https://attendee.gotowebinar.com/register/5166265762915808259.* Participants are responsible for ensuring their systems are compatible with the webinar software.

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

Issued in Washington, DC, on March 10, 2016.

Kathleen B. Hogan,

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

[FR Doc. 2016–05825 Filed 3–14–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket No. EERE–2012–BT–STD–0045]

RIN 1904–AD28

Energy Efficiency Program for Consumer Products: Energy Conservation Standards for Ceiling Fans: Availability of the Preliminary Technical Support Document

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Extension of public comment period.

SUMMARY: On January 13, 2016, the U.S. Department of Energy (DOE) published a notice of proposed rulemaking (NOPR) for ceiling fans energy conservation standards in the **Federal Register**. This document announces an extension of the public comment period for submitting comments on NOPR or any other aspect of the rulemaking for ceiling fans. The comment period is extended to April 14, 2016.

DATES: The comment period for the proposed rule published January 13, 2016 (81 FR 1687), is extended. DOE will accept comments, data, and information regarding this rulemaking received no later than April 14, 2016.

ADDRESSES: Interested persons may submit comments, identified by docket number EERE–2011–BT–STD–0045 and/or Regulation Identification Number (RIN) 1904–AD28, by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: CeilingFan2012STD0045@ee.doe.gov.* Include the docket number EERE–2011–BT–STD–0045 and/or RIN 1904–AD28 in the subject line of the message.
- *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 compact disc (CD), in which case it is not necessary to include printed copies. [Please note that comments and CDs sent by mail are often delayed and may be damaged by mail screening processes.]
- *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 CD, in which case it is not necessary to include printed copies.

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

The rulemaking Web page can be found at: *https://www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=5.* This Web page contains a link to the docket for this notice on the regulation.gov site. The *www.regulations.gov* Web page

contains instructions on how to access all documents in the docket, including public comments.

FOR FURTHER INFORMATION CONTACT:

Ms. Lucy deButts, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies, EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202)-287–1604. Email: *ceiling_fans@ee.doe.gov.*

In the Office of the General Counsel, contact Ms. Elizabeth Kohl, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–7796. Email: *Elizabeth.Kohl@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: On January 13, 2016, the U.S. Department of Energy (DOE) published a notice of proposed rulemaking (NOPR) for ceiling fans energy conservation standards in the **Federal Register** to make available and invite comments on the analysis for ceiling fans energy conservation standards. 81 FR 1687. The notice provided for the written submission of comments by March 14, 2016, and oral comments were also accepted at a public meeting held on February 3, 2016. At the public meeting, various stakeholders have requested an extension of the comment period to consider the NOPR, technical support documents and public meeting presentation, and to prepare and submit comments accordingly. On March 2, American Lighting Association sent a written request for 30-day comment period extension due additional testing manufacturers have to conduct to review their existing products against the ceiling fan test procedures SNOPR, published in the **Federal Register** on June 3, 2015, and the conservation standards NOPR.

DOE has determined that an extension of the public comment period is appropriate based on the foregoing reason. DOE will consider any comments received by midnight of April 14, 2016, and deems any comments received by that time to be timely submitted.

Issued in Washington, DC, on March 10, 2016.

Kathleen B. Hogan,

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

[FR Doc. 2016–05824 Filed 3–14–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–4866; Directorate Identifier 2015–NE–33–AD]

RIN 2120–AA64

Airworthiness Directives; Honeywell International Inc. Turboprop and Turboshaft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Honeywell International Inc. (Honeywell) TPE331 model turboprop engines and TSE331–3U model turboshaft engines. This proposed AD was prompted by the discovery of cracks in a 2nd stage compressor impeller during a routine shop visit. This proposed AD would require removal of the 2nd stage compressor impeller. We are proposing this AD to prevent failure of the compressor impeller, uncontained part release, damage to the engine, and damage to the airplane.

DATES: We must receive comments on this proposed AD by May 16, 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.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–4866; 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: Joseph Costa, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712–4137; phone: 562–627–5246; fax: 562–627–5210; email: *joseph.costa@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this NPRM. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–4866; Directorate Identifier 2015–NE–33–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. We will consider all comments received by the closing date and may amend this NPRM 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 NPRM.

Discussion

Several 2nd stage compressor impellers were found cracked in the aft curvic root radius when inspected during a routine shop visit. This condition, if not corrected, could result in failure of the compressor impeller, uncontained part release, damage to the engine, and damage to the airplane.

FAA's Determination

We are proposing this NPRM 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 NPRM would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

We estimate that this proposed AD would affect 4,000 engines installed on airplanes of U.S. registry. We estimate that it would take 0 hours per engine to comply with this proposed AD. The average labor rate is $85 per hour. We also estimate that required parts would cost about $1,513.25 per engine. Based

on these figures, we estimate the total cost of this proposed AD on U.S. operators to be $6,053,000.

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 to the extent that it justifies making a regulatory distinction, 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):

Honeywell International Inc. (Type Certificate Previously Held by AlliedSignal Inc., Garrett Engine Division; Garrett Turbine Engine Company; and AiResearch Manufacturing Company of Arizona): Docket No. FAA–2015–4866; Directorate Identifier 2015–NE–33–AD.

(a) Comments Due Date

We must receive comments by May 16, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Honeywell International Inc. (Honeywell) TPE331–3U, –3UW, –5, –5A, –5AB, –5B, –6, –6A, –8, –10, –10AV, –10GP, –10GT, –10N, –10P, –10R, –10T, –10U, –10UA, –10UF, –10UG, –10UGR, –10UR, and –11U model turboprop engines, and TSE331–3U model turboshaft engines, with a 2nd stage compressor impeller, part number (P/N) 893482–1 through –5, inclusive, or P/N 3107056–1 or P/N 3107056–2, installed.

(d) Unsafe Condition

This AD was prompted by the discovery of cracks in a 2nd stage compressor impeller during a routine shop visit. We are issuing this AD to prevent failure of the compressor impeller, uncontained part release, damage to the engine, and damage to the airplane.

(e) Compliance

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

(1) Remove from service the 2nd stage compressor impeller within 200 cycles-in-service after the effective date of the AD, or before exceeding 7,000 cycles since last overhaul, whichever occurs later.

(f) Installation Prohibition

After the effective date of this AD, do not install a 2nd stage compressor impeller, part number (P/N) 893482–1 through –5, inclusive, or P/N 3107056–1 or P/N 3107056–2 into any engine.

(g) Alternative Methods of Compliance (AMOCs)

The Manager, Los Angeles Aircraft Certification Office, FAA, may approve AMOCs for this AD. Use the procedures found in 14 CFR 39.19 to make your request.

(h) Related Information

(1) For more information about this AD, contact Joseph Costa, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712–4137; phone: 562–627–5246; fax: 562–627–5210; email: *joseph.costa@faa.gov.*

Issued in Burlington, Massachusetts, on March 4, 2016.

Colleen M. D'Alessandro,

Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2016–05704 Filed 3–14–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 69

[Docket ID: DOD–2014–OS–0006]

RIN 0790–AJ18

School Boards for DoD Domestic Dependent Elementary and Secondary Schools (DDESS)

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

ACTION: Proposed rule.

SUMMARY: This proposed rule establishes policy, assigns responsibilities, and provides procedures for the establishment and operation of elected school boards for elementary, middle and high schools operated by the DoD Education Activity in the Continental United States and the Territories, Possessions and Commonwealths. Specific direction is given to facilitate compliance with 10 U.S.C. 2164(d), as implemented by DoD Instruction 1342.25, regarding the election of board members, composition, roles and responsibilities, operating procedures and resolution of conflicts.

DATES: Comments must be received by May 16, 2016.

ADDRESSES: You may submit comments, identified by docket number 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: Marsha Jacobson, 571–372–1900.

SUPPLEMENTARY INFORMATION: The revisions to this proposed rule will be reported in future status updates as part of DoD's retrospective plan under Executive Order 13563 completed in August 2011. DoD's full plan can be accessed at: *http://www.regulations.gov/#!docketDetail;D=DOD-2011-OS-0036.*

Executive Summary

I. Purpose of the Regulatory Action

a. Purpose. The Department of Defense has many DoD Domestic Dependent Elementary and Secondary Schools (DDESS) that require school boards to carry out the responsibilities and procedures described in this proposed rule.

b. Succinct statement of legal authority for the regulatory action.

Congress directed the Secretary of Defense to provide for the establishment of school boards at DDESS schools established under the authority of 10 U.S.C. 2164. Pursuant to that direction, the Secretary of Defense issued DoD Instruction 1342.25, *School Boards for Department of Defense Domestic Dependent Elementary and Secondary Schools (DDESS),* dated October 30, 1996. This rule updates and revises the instruction in accordance with the changes to 10 U.S.C. 2164.

II. Summary of the Major Provisions of the Regulatory Action in Question

The major provisions of this regulatory action include:

a. Providing a list of the duties and responsibilities school board members will perform.

b. Describing the process of voting and electing school board members.

c. Details the school board operating procedures, including written agendas, possible removal of school board members by USD(P&R), reimbursement for official travel, among other procedures discussed in this rule. The vast majority of the duties and responsibilities of school board members and the board operating procedures are unchanged, but several duties have been revised in accordance with various policy changes and legal limitations. In addition, one of the changes is due to the statutory change affecting the establishment of school boards in Puerto Rico and Guam.

III. Costs and Benefits

There are no additional costs associated with the implementation of this rule. This is a revised rule which provides updated guidance and clarification of the language in the statute. The establishment and operation of elected school boards for elementary, middle and high schools operated by the DoD Education Activity on military installations in the United States (including the territories, commonwealths, and possessions of the United States) remain the same. School Boards are elected by the parents of students attending the DoD schools. School Board members do not receive any monetary compensation for their services. Board members voluntarily serve as the conduit between the parents of students attending the DoD schools and the DoDEA District Superintendent who is responsible for overseeing the operation of the schools. The costs, if any, are only incidental costs. The rule primarily clarifies and updates existing activities with respect to School Board operations.

Regulatory Procedures

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, distribute impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. It has been determined that this rule is not a significant regulatory action. The 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; competition; jobs; the environment; public health or safety; or State, local, or tribal 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 these Executive Orders.

Sec. 202, Public Law 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 document 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 proposed 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)

It has been certified that 32 CFR part 69 does not impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

Executive Order 13132, ''Federalism''

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. This proposed rule will not have a substantial effect on State and local governments.

List of Subjects in 32 CFR Part 69

Elementary and secondary education, Government employees, and Military personnel.

Accordingly 32 CFR part 69 is proposed to be revised to read as follows:

Sec.
69.1 Purpose.
69.2 Applicability.
69.3 Definitions.
69.4 Policy.
69.5 Responsibilities.
69.6 Procedures.

Authority: 5 U.S.C. Appendix, 10 U.S.C. 1783 and 2164.

PART 69—SCHOOL BOARDS FOR DOD DOMESTIC DEPENDENT ELEMENTARY AND SECONDARY SCHOOLS (DDESS)

§ 69.1 Purpose.

This part establishes policy, assigns responsibilities, and provides procedures for the establishment and operation of elected school boards for schools operated by the DoD in accordance with 10 U.S.C. 2164.

§ 69.2 Applicability.

This part:

(a) Applies to:

(1) 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.

(2) Schools (pre-kindergarten through grade 12) operated by the DoD in accordance with DoD Directive 1342.20, ''Department of Defense Education Activity (DoDEA)'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/134220p.pdf*), and 10 U.S.C. 2164 within the United States and U.S. territories, possessions, and commonwealths.

(b) Does not apply to elected school boards established under State or local law for DDESS special arrangements.

§ 69.3 Definitions.

Unless otherwise noted, these terms and their definitions are for the purposes of this part.

Arrangements. Actions taken by the Secretary of Defense to provide a free public education to dependent children of active duty military members and civilian employees of the Federal Government in accordance with 10 U.S.C. 2164 through DDESS arrangements or DDESS special arrangements.

DDESS arrangement. An agreement whereby a school operated by the DoD under DoD Directive 1342.20 and 10 U.S.C. 2164 provides a free public education for eligible children.

DDESS special arrangement. An agreement made in accordance with 10 U.S.C. 2164 between the Secretary of Defense, and a local education agency whereby a school or a school system operated by the local education agency or private education agency provides educational services to eligible dependent children of active duty military members and full time DoD civilian employees. Arrangements result in partial or total federal funding to the local public education agency for the educational services provided.

Parent. The biological father or mother of a child when parental rights have not been legally terminated; a person who, by order of a court of competent jurisdiction, has been declared the father or mother of a child by adoption; the legal guardian of a child; or a person in whose household a child resides, provided that such a person stands *in loco parentis* to that child and contributes at least one-half of the child's support.

Quorum. A majority of the total number of school board members authorized on the particular school board.

Special election. A special election is an election that is held between the regularly scheduled annual school board elections.

§ 69.4 Policy.

It is DoD policy that:

(a) Except for the Commonwealth of Puerto Rico (referred to in this part as ''Puerto Rico'') and the Territory of Guam (referred to in this part as ''Guam''), each DDESS arrangement must have an elected school board established and operated in accordance with DoD Directive 1342.20 and 10 U.S.C. 2164, and this part. One school board may be established for all such schools in Puerto Rico and in Guam.

(b) Because members of DDESS elected school boards, when acting in the capacity as a school board member, are not U.S. Government employees or members of the military, they may not exercise discretionary governmental authority such as taking personnel actions or establishing governmental policies, or perform other inherently governmental functions.

(c) The DDESS chain of supervision within DDESS for matters relating to DDESS arrangements operated in accordance with DoD Directive 1342.20 and 10 U.S.C. 2164 will be from the Director, DDESS, to the superintendent of each DDESS arrangement. The superintendent will inform the school board of all matters affecting the operation of the DDESS arrangement. Direct liaison among the school board, the Director, DDESS, and the superintendent is authorized for all matters pertaining to the DDESS arrangement.

§ 69.5 Responsibilities.

(a) Under the authority, direction, and control of the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), unless otherwise directed by statute, Presidential directive, or DoD policy, the Assistant Secretary of Defense for Manpower and Reserve Affairs (ASD(M&RA)) makes the final decision on all formal appeals to directives and other guidance submitted by the school board or superintendent.

(b) Under the authority, direction, and control of the ASD(M&RA), the Director, DoD Education Activity (DoDEA), oversees DDESS arrangements and ensures implementation of the procedures in § 69.6.

§ 69.6 Procedures.

(a) *Implementation.*

(1) The Director, DDESS, will:

(i) Oversee the establishment of elected school boards in DDESS arrangements, which, pursuant to 10 U.S.C. 2164(d)(6), need not comply with the provisions of 5 U.S.C. Appendix, also known and referred to in this part as ''The Federal Advisory Committee Act of 1972,'' as amended.

(ii) Monitor compliance by the superintendents and school boards with applicable statutory and regulatory requirements and this part. In the event of suspected noncompliance, take appropriate action, which includes notifying the superintendent and the school board president of the affected DDESS arrangement.

(iii) Determine when the actions of a school board conflict with an applicable statute, regulation, or other guidance or when there is a conflict in the views of the school board and the superintendent. When such conflicts occur, assist the superintendent and the school board in resolving them, or direct that such actions be discontinued. Such disapprovals must be in writing to the school board and the superintendent concerned and must state the specific supporting reason or reasons.

(2) School board members will:

(i) Participate in the development and oversight of fiscal, personnel, and educational policies, procedures, and programs for the DDESS arrangement concerned, consistent with this part.

(ii) Approve agendas and prepare minutes for school board meetings. A copy of the approved minutes of school board meetings will be forwarded to the Director, DDESS, within 10 working days after the date the minutes are approved.

(iii) Advise the Director, DDESS, in competitively filling any superintendent vacancy.

(A) If the Director, DDESS, decides not to fill a superintendent vacancy, or to fill a vacancy through internal reassignment, school board members will be provided the opportunity for written comment to the Director, DDESS, on this issue and final

determination will be made by the Director, DDESS.

(B) If the Director, DDESS, elects to fill a superintendent vacancy competitively, each school board in the respective school district may, at the school board's discretion, provide one school board representative (*i.e.,* the school board president) to participate as a member of the DDESS Director's selection panel. The school board representative to a selection panel must be either a full-time or permanent part-time government employee, a military member, or a member of a military family, so that the selection panel will not be considered an advisory committee pursuant to the Federal Advisory Committee Act and 10 U.S.C. 1783.

(C) In advising the Director, DDESS, the selection panel will provide advice to the Director, DDESS, by reviewing applications for the superintendent vacancy, preparing a list of qualified candidates, interviewing candidates, and ranking the list of recommended candidates for the DDESS Director's selection.

(iv) Prepare and provide to the Director, DDESS, an annual written review of the superintendent's performance based on established critical elements. This advisory review may be provided to the superintendent or inserted into the final comments of the performance review.

(v) Participate in the development of the district's budget to submit to the Director, DDESS, for his or her approval. Oversee the approved budget, in conjunction with the superintendent, as appropriate for operation of the school arrangement.

(vi) Invite the superintendent to attend all school board meetings.

(vii) Provide advice to the superintendent on the operation of the schools and the implementation of the approved budget.

(viii) Channel communications with school employees to the superintendent. Refer all applications, complaints, and other communications, oral or written, to the superintendent.

(ix) Participate in the development of school policies, rules, and regulations in conjunction with the superintendent, and recommend which policies will be reflected in the school policy manual. The school policy manual, which will be issued by the superintendent, may include:

(A) A statement of the school philosophy.

(B) The roles and responsibilities of school administrative and educational personnel.

(C) Provisions for publishing an annual school calendar.

(D) Provisions on instructional services, including policies to develop and adopt curriculum and textbooks.

(E) Regulations affecting students, including attendance, grading, promotion, retention, and graduation criteria, and the student code of rights, responsibilities, and conduct.

(F) School policy on community relations and non-instructional services, including maintenance and custodial services, food services, and student transportation.

(G) School policy and legal limits on financial operations, including accounting, disbursing, contracting, and procurement; personnel operations, including conditions of employment and labor management regulations; and the processing of, and response to, complaints.

(H) Procedures providing for new school board member orientation.

(I) Any other matters the school board and the superintendent determine to be necessary.

(x) Prepare and submit formal appeals to directives and other guidance that, in the view of the school board, adversely impact the operation of the DDESS either through the operation and management of DDESS or a specific DDESS arrangement in accordance with 10 U.S.C. 2164.

(A) Written formal appeals with justification and supporting documentation must be submitted by the school board or superintendent to the ASD(M&RA).

(B) The ASD(M&RA) will make the final decision on all formal appeals on matters pertaining to his or her charter directive.

(C) The Director, DDESS, will provide the appealing body a written review of the findings relating to the merits of the appeal.

(D) Formal appeals will be handled expeditiously by all parties to minimize any adverse impact on the operation of the DDESS arrangement.

(xi) Enforce school board operating procedures.

(b) *Composition of the School Board.*

(1) To be a school board member, an individual must be a resident of the military installation at which the DDESS arrangement is located or, in the case of candidates for school boards in Puerto Rico and Guam, be the parent of an eligible child currently enrolled in the DDESS arrangement; cannot be employed by the DDESS arrangement; and cannot be a registered federal lobbyist.

(2) The school board will recommend to the Director, DDESS, the number of elected school board voting members, which must be no fewer than three and no more than nine, depending upon local needs. The members of the school board will select by majority vote of the total number of school board members authorized at the beginning of each official school board term, one member to act as president and another to act as vice president.

(i) The president and vice president will each serve for 1 year.

(ii) The president will preside over school board meetings and provide leadership for related activities and functions.

(iii) The vice president will serve in the absence of the president.

(iv) If the position of president is vacated for any reason, the vice president will assume the position of president until the position is either vacated or the next annual/regularly-scheduled school board election, whichever occurs first.

(v) The resulting vacancy in the position of the vice president will be filled by the majority vote of all members of the incumbent board.

(3) School board members, with the exception of travel and per diem related to official school board business, may not receive compensation for their service on the school board.

(4) School board members may not have any financial interest in any company or organization doing business with DDESS. Waivers to this restriction may be granted on a case-by-case basis by the Director, DDESS, in coordination with the Office of General Counsel of the DoDEA.

(5) The DDESS arrangement superintendent will serve as a non-voting observer to all school board meetings.

(6) The installation commander will:

(i) Serve as a non-voting observer to the school board.

(ii) Convey command concerns to the school board and the superintendent and keep the school board and the superintendent informed of changes and other matters within the host installation that affect school expenditures or operations.

(c) *School Board Electorate.* School board members will be elected by parents of students who attend the school. Each parent will have one vote.

(d) *Election of School Board Members.*

(1) The superintendent, in consultation with the school board, will be responsible for developing the plans for nominating school board members and conducting the school board election and the special election process. The superintendent will

announce election results within 7 working days of the election.

(2) The school board will determine a schedule for regular elections.

(i) Parents will have adequate notice of the time and place of the election.

(ii) Military members in a deployed or official tour of duty status at the time of the election may use email or other electronic means to cast a vote by absentee ballot, provided that the absentee ballot is received by the district superintendent prior to the close of the scheduled election.

(iii) The superintendent must not disclose the particular vote of any absentee voter.

(iv) All other votes must be cast in person by secret ballot at the time and place of the election.

(v) The candidates(s) receiving the greatest number of votes will be elected as school board member(s).

(3) Each candidate for school board membership must be nominated in writing by a member of the school board electorate. Votes may be cast at the time of election for a write-in candidate who has not filed a nomination petition if the write-in candidate is qualified to serve in the position sought.

(4) The school board will determine the term of office for elected members, not to exceed 3 years, and the limit on the number of consecutive terms, if any. If the board fails to set these terms by the first day of the first full month of the school year, the terms will be set at 3 years, with a maximum of two consecutive terms.

(5) When there is a sufficient number of school board vacancies that result in not having a quorum, a special election must be called by the superintendent.

(i) The nomination and election procedures for a special election will be the same as those of regularly scheduled school board elections.

(ii) Individuals elected by special election will serve until the next regularly scheduled school board election.

(iii) Vacancies may occur due to the school board member's resignation, death, removal for cause, or transfer, or the disenrollment of a school board member's child(ren) from the DDESS arrangement.

(6) The election process will provide staggered terms for board members (*e.g.,* on the last day of the last month of each year, the term for some board members will expire).

(e) *School Board Operating Procedures.*

(1) The school board must operate from a written agenda at all meetings. Matters not placed on the agenda before the start of the meeting, but approved by a majority of the school board present, may be considered at the ongoing meeting and added to the agenda at that time.

(2) A majority of the total number of school board members authorized will constitute a quorum.

(3) School board meetings must be conducted a minimum of four times a year. The school board president consistent with government-wide guidelines concerning the timely announcement of public meetings, should notify the school board members and the public of the scheduled board meeting not less than 5 calendar days before the meeting is scheduled. School board meetings will generally be open to the public. Pursuant to 10 U.S.C. 2164(d)(6), a school board need not comply with the provisions of the Federal Advisory Committee Act, but may close meetings as permitted by the Act.

(4) The school board will not be bound in any way by any action or statement of an individual member or group of members of the board, except when such action or statement is approved by a majority of the school board members during a meeting.

(5) Elected school board members may be removed by the USD(P&R), for dereliction of duty, malfeasance, or other grounds for cause shown. This authority may not be delegated below the level of the ASD(M&RA).

(i) The school board concerned may recommend such removal with a two-thirds majority vote.

(ii) Before a school board member may be removed, the member must be afforded due process, to include written notification of the basis for the action, review of the evidence or documentation considered by the school board, and an opportunity to respond.

Dated: March 8, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016–05600 Filed 3–14–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 91

[Docket No. FWS–HQ–MB–2015–0161; FXMB12330900000//167//FF09M13200]

RIN 1018–BB23

Revision of Federal Migratory Bird Hunting and Conservation Stamp (Duck Stamp) Contest Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; extension of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are extending the comment period for our February 11, 2016, proposed rule to change the regulations governing the annual Migratory Bird Hunting and Conservation Stamp Contest (also known as the Federal Duck Stamp Contest). This action will allow interested persons additional time to comment on the proposal. Comments previously submitted need not be resubmitted as they will be fully considered in preparation of the final rule.

DATES: The comment period for the proposed rule published in the **Federal Register** on February 11, 2016 (81 FR 7279), is extended. We will accept comments from all interested parties until March 21, 2016. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below), must be received by 11:59 p.m. Eastern Time on the closing date.

ADDRESSES:

Document availability: You may obtain a copy of the proposed rule on the Internet at *http://www.regulations.gov* at Docket No. FWS–HQ–MB–2015–0161.

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

- *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, enter FWS–HQ–MB–2015–0161, which is the docket number for this rulemaking. Then click on the Search button. On the resulting page, in the Search panel on the left side of the screen, under the Document Type heading, click on the Proposed Rules link to locate the document. You may submit a comment by clicking on ''Comment Now!''
- *By hard copy:* Submit by U.S. mail or hand delivery to: Public Comments

Processing, Attn: FWS–HQ–MB–2015–0161; Division of Policy, Performance, and Management Programs; U.S. Fish and Wildlife Service; 5275 Leesburg Pike, MS: BPHC; Falls Church, VA 22041–3803.

We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see Public Comments under **SUPPLEMENTARY INFORMATION** for more information).

FOR FURTHER INFORMATION CONTACT: Suzanne Fellows, (703) 358–2145.

SUPPLEMENTARY INFORMATION:

Public Comments

We will accept written comments during this extended comment period on our proposed revisions to the annual Migratory Bird Hunting and Conservation Stamp Contest (also known as the Federal Duck Stamp Contest), that was published in the **Federal Register** on February 11, 2016 (81 FR 7279). We will consider comments and information that we receive from all interested parties on or before the close of the comment period (see **DATES**).

If you have already submitted comments during the public comment period that began February 11, 2016, please do not resubmit them. We have incorporated them into the public record, and we will fully consider them in the preparation of our final rule.

You may submit your comments by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**.

If you submit a comment via *http://www.regulations.gov,* your entire comment—including any personal identifying information—will be posted on the Web site. We will post all hardcopy comments on *http://www.regulations.gov* as well. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Background

On February 11, 2016, we published a proposed rule (81 FR 7279) regarding changes to the regulations in title 50 of the Code of Federal Regulations (CFR) at 50 CFR part 91 concerning the Federal Duck Stamp Contest. Specifically, our amendments would update our contact information; update the common names and spellings of species on our list of potential contest design subjects; correct minor grammar errors; and update the regulations to require the inclusion of an appropriate secondary non-waterfowl migratory bird species on entries beginning with the 2016 contest.

During the course of the comment period, we received a request to extend the 30-day public comment period on the proposed rule beyond the March 14, 2016, closing date. In order to provide all interested parties an opportunity to review and comment on the proposed rule, we are extending the comment period on the proposed rule for an additional 7 days, until March 21, 2016.

Authority

The authority for this action is the Migratory Bird Hunting and Conservation Stamp Act, as amended (16 U.S.C. 718a *et seq.*).

Dated: March 8, 2016.

Karen Hyun,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2016–05694 Filed 3–14–16; 8:45 am]

BILLING CODE 4333–15–P

Notices

Federal Register
Vol. 81, No. 50
Tuesday, March 15, 2016

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–SC–16–0022]

Fruit and Vegetable Industry Advisory Committee

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, the Agricultural Marketing Service (AMS) is announcing a meeting of the Fruit and Vegetable Industry Advisory Committee (Committee). The meeting is being convened to examine the full spectrum of fruit and vegetable industry issues and to provide recommendations and ideas to the Secretary of Agriculture on how the U.S. Department of Agriculture (USDA) can tailor programs and services to better meet the needs of the U.S. produce industry. The meeting is open to the public. This notice sets forth the schedule and location for the meeting.

DATES: Wednesday, April 6, 2016, from 8:30 a.m. to 5 p.m. Eastern Time, and Thursday, April 7, 2016, from 8:30 a.m. to 1 p.m., Eastern Time.

ADDRESSES: The Committee meeting will be held in the Fairfax/Prince William Conference Room at the Hyatt Regency Crystal City Hotel @ Ronald Reagan National Airport, 2799 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: Pamela Stanziani, Designated Federal Official, USDA, AMS, Specialty Crops Program; Telephone: (202) 720–3334; Email: *pamela.stanziani@ams.usda.gov*.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (FACA) (5 U.S.C. App.), the Secretary of Agriculture (Secretary) established the Committee in 2001, to examine the full spectrum of issues faced by the fruit and vegetable industry and to provide suggestions and ideas to the Secretary on how USDA can tailor its programs to meet the fruit and vegetable industry's needs. The Committee was re-chartered in July 2015, for a two-year period.

AMS Deputy Administrator for the Specialty Crops Program, Charles Parrott, serves as the Committee's Manager. Representatives from USDA mission areas and other government agencies affecting the fruit and vegetable industry are periodically called upon to participate in the Committee's meetings as determined by the Committee. AMS is giving notice of the Committee meeting to the public so that they may attend and present their views. The meeting is open to the public.

Public Comments: All written public comments must be submitted electronically by March 21, 2016, for the Committee's consideration to Pamela Stanziani at *pamela.stanziani@ams.usda.gov* or to *www.regulations.gov,* or mailed to: 1400 Independence Avenue SW., Room 2077–South, STOP 0235, Washington, DC 20250–0235. The meeting will be recorded, and information about obtaining a transcript will be provided at the meeting.

Agenda items may include, but are not limited to, welcome and introductions, administrative matters, progress reports from committee working group chairs and/or vice chairs, potential working group recommendation discussion and proposal, and presentations by subject matter experts as requested by the Committee.

Meeting Accommodations: The Hyatt Regency Crystal City Hotel @R Ronald Reagan National Airport is ADA compliant and provides reasonable accommodations to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in this public meeting, please notify Pamela Stanziani at *pamela.stanziani@ams.usda.gov* or (202) 720–3334, by March 21, 2016. Determinations for reasonable accommodations will be made on a case-by-case basis.

Dated: March 10, 2016.

Elanor Starmer,

Acting Administrator.

[FR Doc. 2016–05799 Filed 3–14–16; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–039]

Certain Amorphous Silica Fabric From the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation

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

DATES: *Effective Date:* March 15, 2016.

FOR FURTHER INFORMATION CONTACT: Yasmin Bordas at (202) 482–3813, John Corrigan at (202) 482–7438, or Emily Maloof at (202) 482–5649, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On February 16, 2016, the Department of Commerce (the Department) initiated a countervailing duty investigation on certain amorphous silica fabric from the People's Republic of China.[1] Currently, the preliminary determination is due no later than April 21, 2016.

Postponement of the Preliminary Determinations

Section 703(b)(1) of the Tariff Act of 1930, as amended (the Act), requires the Department to issue the preliminary determination in a countervailing duty investigation within 65 days after the date on which the Department initiated the investigation. However, if the petitioner makes a timely request for an extension in accordance with 19 CFR 351.205(e), section 703(c)(1)(A) of the Act allows the Department to postpone the preliminary determination until no later than 130 days after the date on which the Department initiated the investigation.

On March 8, 2016, Petitioner[2] submitted a timely request pursuant to section 703(c)(1)(A) of the Act and 19 CFR 351.205(e) to postpone the

[1] *See Certain Amorphous Silica Fabric from the People's Republic of China: Initiation of Countervailing Duty Investigation,* 81 FR 8909 (February 23, 2016).

[2] Auburn Manufacturing, Inc.

preliminary determination.[3] In its request, Petitioner states: ''Due to the number and nature of subsidy programs under investigation, and due to the fact that the Department has sent quantity and value questionnaires to select mandatory respondents, Petitioner believes that the normal 65-day deadline for a preliminary determination in a countervailing duty investigation would not provide sufficient time for the Department to examine adequately the amount of subsidies that producers and exporters of subject merchandise in China receive.'' [4]

For the reasons stated above and because there are no compelling reasons to deny the request, the Department, in accordance with section 703(c)(1)(A) of the Act, is postponing the deadline for the preliminary determination to no later than 130 days after the day on which the investigation was initiated. As a result, the Department will issue its preliminary determination no later than June 27, 2016.[5] In accordance with section 735(a)(1) of the Act, the deadline for the final determination of this investigation will continue to be 75 days after the date of the preliminary determination, unless postponed at a later date.

This notice is issued and published pursuant to section 703(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: March 9, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2016–05810 Filed 3–14–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Advisory Committee on Supply Chain Competitiveness; Public Meetings

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed topics of discussion for public meetings of the Advisory Committee on Supply Chain Competitiveness (Committee).

DATES: The meetings will be held on April 20, 2016, from 12:00 p.m. to 2:30 p.m., and April 21, 2016, from 9:00 a.m. to 4:00 p.m., Eastern Standard Time (EST).

ADDRESSES: The meetings on April 20 and 21 will be held at the Port of Houston Authority, Executive Office Building, Boardroom, 111 East Loop North, Houston, Texas 77029.

FOR FURTHER INFORMATION CONTACT: Richard Boll, Office of Supply Chain, Professional & Business Services, International Trade Administration. (Phone: (202) 482–1135 or Email: *richard.boll@trade.gov*)

SUPPLEMENTARY INFORMATION:

Background: The Committee was established under the discretionary authority of the Secretary of Commerce and in accordance with the Federal Advisory Committee Act (5 U.S.C. App. 2). It provides advice to the Secretary of Commerce on the necessary elements of a comprehensive policy approach to supply chain competitiveness designed to support U.S. export growth and national economic competitiveness, encourage innovation, facilitate the movement of goods, and improve the competitiveness of U.S. supply chains for goods and services in the domestic and global economy; and provides advice to the Secretary on regulatory policies and programs and investment priorities that affect the competitiveness of U.S. supply chains. For more information about the Committee visit: *http://trade.gov/td/services/oscpb/supplychain/acscc/.*

Matters to Be Considered: Committee members are expected to continue to discuss the major competitiveness-related topics raised at the previous Committee meetings, including trade and competitiveness; freight movement and policy; information technology and data requirements; regulatory issues; finance and infrastructure; and workforce development. The Committee's subcommittees will report on the status of their work regarding these topics. The agendas may change to accommodate Committee business. The Office of Supply Chain, Professional & Business Services will post the final detailed agendas on its Web site, *http://trade.gov/td/services/oscpb/supplychain/acscc/,* at least one week prior to the meeting. The meetings will be open to the public and press on a first-come, first-served basis. Space is limited. The public meetings are physically accessible to people with disabilities. Individuals requiring accommodations, such as sign language interpretation or other ancillary aids, are asked to notify Mr. Richard Boll, at (202) 482–1135 or *richard.boll@trade.gov* five (5) business days before the meeting.

Interested parties are invited to submit written comments to the Committee at any time before and after the meeting. Parties wishing to submit written comments for consideration by the Committee in advance of this meeting must send them to the Office of Supply Chain, Professional & Business Services, 1401 Constitution Ave NW., Room 11014, Washington, DC 20230, or email to *richard.boll@trade.gov.*

For consideration during the meetings, and to ensure transmission to the Committee prior to the meetings, comments must be received no later than 5:00 p.m. EST on April 8, 2016. Comments received after April 8, 2016, will be distributed to the Committee, but may not be considered at the meetings. The minutes of the meetings will be posted on the Committee Web site within 60 days of the meeting.

Dated: March 8, 2016.

Bruce Harsh,

Acting Director, Office of Supply Chain and Professional & Business Services.

[FR Doc. 2016–05780 Filed 3–14–16; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE459

Notice of Intent To Prepare an Environmental Impact Statement for Sea Turtle Conservation and Recovery Actions in Relation to the Southeastern United States Shrimp Fishery and To Conduct Public Scoping Meetings

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

ACTION: Notice of intent to prepare an environmental impact statement and conduct public scoping meetings.

SUMMARY: We (NMFS) intend to prepare an environmental impact statement (EIS) and to conduct public scoping meetings to comply with the National Environmental Policy Act (NEPA) by assessing potential impacts resulting from the proposed implementation of new sea turtle regulatory requirements in the shrimp fishery of the southeastern

[3] *See* Letter from Petitioner, ''Certain Amorphous Silica Fabric from the People's Republic of China: Petitioner's Request to Extend the Deadline for the Preliminary Determination,'' dated March 8, 2016.

[4] *Id.,* at 1.

[5] The deadline based on a 65-day extension would be June 25, 2016, which is a Saturday. Department practice dictates that where a deadline falls on a weekend or federal holiday, the appropriate deadline is the next business day. *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533 (May 10, 2005).

United States. These requirements are proposed to protect threatened and endangered sea turtles in the western Atlantic Ocean and Gulf of Mexico from incidental capture, and would be implemented under the Endangered Species Act (ESA).

DATES: The public scoping period starts March 15, 2016 and will continue until April 29, 2016. We will consider all written comments received or postmarked by April 29, 2016, in defining the scope of the EIS. Comments received or postmarked after that date will be considered to the extent practicable. Verbal comments will be accepted at the scoping meetings as specified below.

ADDRESSES: We will hold public scoping meetings to provide the public with an opportunity to present verbal comments on the scope of the EIS and to learn more about the proposed action from NMFS officials. Scoping meetings will be held at the following locations:

1. Morehead City—Crystal Coast Civic Center, 3505 Arendell Street, Morehead City, NC 28557.
2. Larose—Larose Regional Park and Civic Center, 307 East 5th Street, Larose, LA 70373.
3. Belle Chasse—Belle Chasse Auditorium, 8398 Highway 23, Belle Chasse, LA 70037.
4. Biloxi—Biloxi Visitor's Center, 1050 Beach Boulevard, Biloxi, MS 39530.
5. Bayou La Batre—Bayou La Batre Community Center, 12745 Padgett Switch Road, Bayou La Batre, AL 36509.

The meeting dates are:

1. April 13, 2016, 2 p.m. to 4 p.m., Morehead City, NC.
2. April 18, 2016, 4 p.m. to 6 p.m., Larose, LA.
3. April 19, 2016, 4 p.m. to 6 p.m., Belle Chasse, LA.
4. April 20, 2016, 5 p.m. to 7 p.m., Biloxi, MS.
5. April 21, 2016, 2 p.m. to 4 p.m., Bayou La Batre, AL.

In addition to the five scoping meetings, we will also submit a scoping document to the Gulf of Mexico and South Atlantic Fishery Management Councils, and the Atlantic and Gulf States Marine Fisheries Commissions.

Written comments on the scope of the EIS should be sent electronically via email to *Michael.Barnette@noaa.gov,* or physically via U.S. mail to Michael Barnette, Southeast Regional Office, Protected Resources Division, 263 13th Ave. South, St. Petersburg, FL 33701–5505. Additional information, including a scoping document, can be found at: *http://www.nmfs.noaa.gov/pr/species/turtles/regulations.htm.*

All comments, whether offered verbally in person at the scoping meetings or in writing as described above, will be considered.

FOR FURTHER INFORMATION CONTACT: Michael Barnette, NMFS, Southeast Regional Office, at the address above, or at (727) 824–5312.

SUPPLEMENTARY INFORMATION:

Background

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the ESA. The Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) are listed as endangered. The green (*Chelonia mydas*) and the Northwest Atlantic Ocean distinct population segment (DPS) of the loggerhead (*Caretta caretta*) are listed as threatened, except for breeding populations of green sea turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered; on March 23, 2015 (80 FR 15271), NMFS and U.S. Fish and Wildlife Service proposed to remove the existing ESA listings for the green sea turtle and, in their place, list three endangered (Mediterranean, Central West Pacific and Central South Pacific) and eight threatened (North Atlantic, South Atlantic, Southwest Indian, North Indian, East Indian-West Pacific, Southwest Pacific, Central North Pacific, and East Pacific) DPSs.

Sea turtles are incidentally taken, and some are killed, as a result of numerous activities, including fishery-related trawling activities in the Gulf of Mexico and along the Atlantic seaboard. Under the ESA and its implementing regulations, the taking of sea turtles is prohibited, with exceptions identified in 50 CFR 223.206(d), or according to the terms and conditions of a biological opinion issued under section 7 of the ESA, or according to an incidental take permit issued under section 10 of the ESA. The incidental taking of threatened turtles during shrimp trawling is exempted from the taking prohibition of section 9 of the ESA if the conservation measures specified in the sea turtle conservation regulations (50 CFR 223.205) are followed. The regulations require most vessels defined as ''shrimp trawlers'' (50 CFR 222.102) operating in the southeastern United States (Atlantic or Gulf area, see 50 CFR 223.206) to have a NMFS-approved TED installed in each net that is rigged for fishing to allow sea turtles to escape. TEDs currently approved include single-grid hard TEDs and hooped hard TEDs conforming to a generic description, and one type of soft TED—the Parker soft TED (see 50 CFR 223.207). Most approved hard TEDs are described in the regulations (50 CFR 223.207(a)) according to generic criteria based upon certain parameters of TED design, configuration, and installation, including height and width dimensions of the TED opening through which the turtles escape. The regulations also describe additional hard TEDs' specific requirements. Skimmer trawls, pusher-head trawls, and wing nets (butterfly trawls), however, may employ alternative tow time restrictions in lieu of TEDs, pursuant to 50 CFR 223.206(d)(2)(ii)(A). The alternative tow time restrictions limit tow times to 55 minutes from April 1 through October 31, and 75 minutes from November 1 through March 31.

TEDs incorporate an escape opening, usually covered by a webbing flap, which allows sea turtles to escape from trawl nets. To be approved, a TED design must be shown to be 97 percent effective in excluding sea turtles during testing based upon NMFS-approved scientific testing protocols (50 CFR 223.207(e)(1)). NMFS-approved testing protocols established to date include the ''small turtle test'' (55 FR 41092, October 9, 1990) and the ''wild turtle test'' (52 FR 24244, June 29, 1987). Additionally, we have established a leatherback model testing protocol to evaluate a candidate TED's ability to exclude adult leatherback sea turtles (66 FR 24287, May 14, 2001). Because testing with live leatherbacks is impossible, we obtained the carapace measurements of 15 nesting female leatherback turtles and used these data to construct an aluminum pipe-frame model of a leatherback turtle measuring 40 inches (101.6 cm) in width, 60 inches (152.4 cm) in length, and 21 inches (53.3 cm) in height. If the leatherback model and a diver with full scuba gear are able to pass through the escape opening of a candidate TED, that escape opening is judged to be capable of excluding adult leatherback sea turtles, as well as other large adult sea turtles.

On June 24, 2011 (76 FR 37050), we published a notice of intent to prepare an EIS and conduct scoping meetings on potential measures to reduce sea turtle bycatch in the shrimp fisheries. On May 10, 2012 (77 FR 27411), we published a proposed rule that, if implemented, would require all skimmer trawls, pusher-head trawls, and wing nets (butterfly trawls) to use TEDs in their nets. We also prepared a draft environmental impact statement (DEIS), which included a description of the purpose and need for evaluating the proposed action and other potential management alternatives, the scientific methodology and data used in the analyses, background information on

the physical, biological, human, and administrative environments, and a description of the effects of the proposed action and other potential management alternatives on the aforementioned environments; a notice of its availability was published on May 18, 2012 (77 FR 29636). At the time the DEIS was prepared, information on the effects of the skimmer trawl fisheries on sea turtle populations was extremely limited. New information gained after the preparation of the DEIS indicated that a significant number of sea turtles observed interacting with the skimmer trawl fishery had a body depth that would allow them to pass between the required maximum four-inch (10.16-cm) bar spacing of a standard TED and proceed into the back of the net (*i.e.,* they would not escape the trawl net). Therefore, the conservation benefit of expanding the TED requirement to skimmer trawls, pusher-head trawls, and wing nets was much less than originally anticipated. As a result, we determined that a final rule to withdraw the alternative tow time restriction and require all skimmer trawls, pusher-head trawls, and wing nets to use TEDs was not warranted (February 7, 2013; 78 FR 9024).

Following the withdrawal of the final rule, we initiated additional TED testing, evaluating both small sea turtle exclusion and shrimp retention within the skimmer trawl fishery. This testing has produced a TED grid with narrow bar spacing (*i.e.,* less than the current four-inch bar spacing maximum) and escape-opening flap specifications that would allow small turtles to effectively escape the trawl net, which could be employed by skimmer and otter trawlers in areas where these small turtles occur.

Purpose of This Action

NEPA requires Federal agencies to conduct an environmental analysis of their proposed actions to determine if the actions may significantly affect the quality of the human environment. We are considering a variety of regulatory measures to reduce the bycatch of threatened and endangered sea turtles in the shrimp fishery of the southeastern United States in light of concerns regarding the effectiveness of existing TED regulations in protecting sea turtles. This EIS will provide background information and specifically evaluate the alternatives and impacts associated with any considered management alternative. This rulemaking would be implemented pursuant to the ESA. We are seeking public input on the scope of the required NEPA analysis, including the range of reasonable alternatives, associated significant impacts of any alternatives, and suitable mitigation measures.

Scope of the Action

The EIS is expected to identify and evaluate the relevant significant impacts and issues associated with implementing new sea turtle regulations for the shrimp fishery of the southeastern United States, in accordance with the Council on Environmental Quality's Regulations at 40 CFR parts 1500–1508 and NOAA's procedures for implementing NEPA found in NOAA Administrative Order (NAO) 216–6, dated May 20, 1999.

Alternatives

We will evaluate a range of reasonable alternatives in the EIS to reduce sea turtle bycatch and mortality in the shrimp fishery of the southeastern United States. In addition to evaluating the status quo, we will evaluate several other alternatives. These alternatives include, but are not necessarily limited to: requiring all skimmer trawls, pusher-head trawls, and wing nets (butterfly trawls) in both the Atlantic and Gulf areas to use either modified TEDs with narrow bar spacing (*i.e.,* less than the current four-inch bar spacing maximum) or standard TEDs; requiring all skimmer trawls, pusher-head trawls, and wing nets in both the Atlantic and Gulf areas to use modified TEDs with narrow bar spacing; requiring all trawlers (*i.e.,* otter trawls, skimmer trawls, pusher-head trawls, and wing nets) fishing in specific areas where small sea turtles occur to use modified TEDs with narrow bar spacing; as well as time and area closures affecting all shrimp vessels. Potential new TED requirements could apply to vessels fishing in both state and Federal waters.

Public Comments

We are providing this notice to advise the public and other agencies of our intentions and to obtain suggestions and information on the scope of the significant issues to include in the EIS. Comments and suggestions are invited from all interested parties to ensure that the full range of issues related to this proposed action and all substantive issues are identified. We request that comments be as specific as possible. In particular, we are seeking information regarding the potential direct, indirect, and cumulative impacts on the human environment from the proposed action. The human environment is defined as ''. . . the natural and physical environment and the relationship of people with that environment'' (40 CFR 1508.14). In the context of the EIS, the human environment could include air quality, water quality, underwater noise levels, socioeconomic resources, fisheries, and environmental justice.

Comments concerning this environmental review process should be directed to us (see **ADDRESSES**). All comments and material received, including names and addresses, will become part of the administrative record and may be released to the public.

Authority

The environmental review of the proposed action will be conducted under the authority and in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), National Environmental Policy Act Regulations (40 CFR parts 1500–1508), NOAA Administrative Order 216–6, other appropriate Federal laws and regulations, and policies and procedures of NOAA and NMFS for compliance with those regulations.

Scoping Meetings Code of Conduct

The public is asked to follow the following code of conduct at the scoping meetings. At the beginning of each meeting, our representative will explain the ground rules (*e.g.,* alcohol is prohibited from the meeting room; attendees will be called to give their comments in the order in which they registered to speak; each attendee will have an equal amount of time to speak; and attendees may not interrupt one another). Our representative will structure the meeting so that all attending members of the public will be able to comment, if they so choose, regardless of the controversial nature of the subject(s). Attendees are expected to respect the ground rules, and those that do not will be asked to leave the meeting.

Special Accommodations

The scoping meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to our representative (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days prior to the meeting. Vietnamese translation services will be provided at the Louisiana and Mississippi public hearings.

Dated: March 9, 2016.

Donna S. Wieting,

Director, Office of Protected Resources.

[FR Doc. 2016–05769 Filed 3–14–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE475

SAW–SARC 61 Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: NMFS and the Northeast Regional Stock Assessment Workshop (SAW) will convene the 61st SAW Stock Assessment Review Committee for the purpose of reviewing the stock assessment of Atlantic surfclam. The Northeast Regional SAW is a formal scientific peer-review process for evaluating and presenting stock assessment results to managers for fish stocks in the offshore U.S. waters of the northwest Atlantic. Assessments are prepared by SAW working groups and reviewed by an independent panel of stock assessment experts called the Stock Assessment Review Committee, or SARC. The public is invited to attend the presentations and discussions between the review panel and the scientists who have participated in the stock assessment process.

DATES: The public portion of the Stock Assessment Review Committee Meeting will be held from July 19, 2016, through July 21, 2016. The meeting will commence on July 19, 2016, at 10 a.m. Eastern Daylight Time. Please see **SUPPLEMENTARY INFORMATION** for the daily meeting agenda.

ADDRESSES: The meeting will be held in the S.H. Clark Conference Room in the Aquarium Building of the National Marine Fisheries Service, Northeast Fisheries Science Center (NEFSC), 166 Water Street, Woods Hole, MA 02543.

FOR FURTHER INFORMATION CONTACT: Sheena Steiner, 508–495–2177; email: *sheena.steiner@noaa.gov;* or, James Weinberg, 508–495–2352; email: *james.weinberg@noaa.gov.*

SUPPLEMENTARY INFORMATION: For further information, please visit the NEFSC Web site at *http://www.nefsc.noaa.gov.* For additional information about the SARC meeting and the stock assessment review of Atlantic surfclam, please visit the NMFS/NEFSC SAW Web page at *http://www.nefsc.noaa.gov/saw/.*

DAILY MEETING AGENDA—SAW/SARC 61 Benchmark Stock Assessment for Atlantic Surfclam (Subject to Change. All Times Are Approximate, and May Be Changed at the Discretion of the SARC Chair).

Tuesday, July 19, 2016

10 a.m.–10:30 a.m.	Welcome Introductions	James Weinberg, SAW Chair.
10:30 a.m.–12 p.m.	Surfclam Assessment Presentation	Dan Hennen.
12 p.m.–1 p.m.	Lunch.	
1 p.m.–3:30 p.m.	Surfclam Presentation (cont.)	Dan Hennen.
3:30 p.m.–3:45 p.m.	Break.	
3:45 p.m.–5:45 p.m.	Surfclam SARC Discussion	Michael Wilberg, SARC Chair.
5:45 p.m.–6 p.m.	Public Comment Period.	

Wednesday, July 20, 2016

9 a.m.–10:45 a.m.	Revisit with Presenters	SARC Chair.
10:45 a.m.–11 a.m.	Break.	
11 a.m.–11:45 a.m.	Revisit with Presenters	SARC Chair.
11:45 a.m.–12 p.m.	Public Comment Period.	
12 p.m.–1:15 p.m.	Lunch.	
1:15 p.m.–4 p.m.	Review/Edit Assessment Summary Report	SARC Chair.
4–4:15 p.m.	Break.	
4:15 p.m.–5 p.m.	SARC Report Writing	SARC Chair.

Thursday, July 21, 2016

9 a.m.–5 p.m.	SARC Report Writing	SARC Chair.

The meeting is open to the public; however, during the 'SARC Report Writing' sessions on July 20 and 21, the public should not engage in discussion with the SARC.

Special Accommodations

This meeting is physically accessible to people with disabilities. Special requests should be directed to Sheena Steiner at the NEFSC, 508–495–2177, at least 5 days prior to the meeting date.

Dated: March 10, 2016.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–05801 Filed 3–14–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

U.S. Integrated Ocean Observing System (IOOS®) Advisory Committee Meeting

AGENCY: National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice.

SUMMARY: Notice is hereby given of a meeting of the U.S. Integrated Ocean Observing System (IOOS®) Advisory

Committee (Committee) in Washington, DC.

DATES: The meeting will be held on Tuesday, April 5, 2016, from 9:00 a.m. to 5:00 p.m. and on Wednesday, April 6, 2016, from 9:00 a.m.–3:00 p.m. These times and the agenda topics described below are subject to change. Refer to the Web page listed below for the most up-to-date meeting agenda.

ADDRESSES: The meeting will be held at the Consortium for Ocean Leadership, 1201 New York Ave. NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Jessica Snowden, Designated Federal Official, U.S. IOOS Advisory Committee, U.S. IOOS Program, 1315 East-West Highway, Second Floor, Silver Spring, MD 20910; Phone 240–533–9466; Fax 301–713–3281; Email *jessica.snowden@noaa.gov* or visit the U.S. IOOS Advisory Committee Web site at *http://www.ioos.noaa.gov/advisorycommittee.*

SUPPLEMENTARY INFORMATION: The Committee was established by the NOAA Administrator as directed by Section 12304 of the Integrated Coastal and Ocean Observation System Act, part of the Omnibus Public Land Management Act of 2009 (Pub. L. 111–11). The Committee advises the NOAA Administrator and the Interagency Ocean Observation Committee (IOOC) on matters related to the responsibilities and authorities set forth in section 12302 of the Integrated Coastal and Ocean Observation System Act of 2009 and other appropriate matters as the Under Secretary refers to the Committee for review and advice. The Committee will provide advice on:

(a) Administration, operation, management, and maintenance of the System;

(b) expansion and periodic modernization and upgrade of technology components of the System;

(c) identification of end-user communities, their needs for information provided by the System, and the System's effectiveness in dissemination information to end-user communities and to the general public; and

(d) any other purpose identified by the Under Secretary of Commerce for Oceans and Atmosphere or the Interagency Ocean Observation Committee.

The meeting will be open to public participation with a 30-minute public comment period on April 5, 2016, from 4:30 p.m. to 4:45 p.m. and on April 6, 2016, from 2:30 p.m. to 2:45 p.m. (check agenda on Web site to confirm time.) The Committee expects that public statements presented at its meetings will not be repetitive of previously submitted verbal or written statements. In general, each individual or group making a verbal presentation will be limited to a total time of three (3) minutes. Written comments should be received by the Designated Federal Official by March 22, 2016 to provide sufficient time for Committee review. Written comments received after March 22, 2016, will be distributed to the Committee, but may not be reviewed prior to the meeting date. Seats will be available on a first-come, first-served basis.

Matters To Be Considered: The meeting will focus on ongoing committee priorities, including messaging IOOS to a new administration, incorporating more biological data variables, and increasing engagement with industry. This meeting will also focus specifically on how the U.S. IOOS federal agencies may better leverage their existing assets. The agenda is subject to change. The latest version will be posted at *http://www.ioos.noaa.gov/advisorycommittee.*

Special Accomodations: These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Jessica Snowden, Designated Federal Official at 240–533–9466 by March 22, 2016.

Dated: March 1, 2016.

Zdenka Willis,

Director, U.S. IOOS Program, National Ocean Service.

[FR Doc. 2016–05782 Filed 3–14–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE477

SAW–SARC 62 Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: NMFS and the Northeast Regional Stock Assessment Workshop (SAW) will convene the 62nd SAW Stock Assessment Review Committee for the purpose of reviewing the stock assessments of Black Sea Bass and Witch Flounder. The Northeast Regional SAW is a formal scientific peer-review process for evaluating and presenting stock assessment results to managers for fish stocks in the offshore U.S. waters of the northwest Atlantic. Assessments are prepared by SAW working groups and reviewed by an independent panel of stock assessment experts called the Stock Assessment Review Committee, or SARC. The public is invited to attend the presentations and discussions between the review panel and the scientists who have participated in the stock assessment process.

DATES: The public portion of the Stock Assessment Review Committee Meeting will be held from November 29, 2016–December 2, 2016. The meeting will commence on November 29, 2016 at 10 a.m. Eastern Standard Time. Please see **SUPPLEMENTARY INFORMATION** for the daily meeting agenda.

ADDRESSES: The meeting will be held in the S.H. Clark Conference Room in the Aquarium Building of the National Marine Fisheries Service, Northeast Fisheries Science Center (NEFSC), 166 Water Street, Woods Hole, MA 02543.

FOR FURTHER INFORMATION CONTACT: Sheena Steiner, 508–495–2177; email: *sheena.steiner@noaa.gov;* or, James Weinberg, 508–495–2352; email: *james.weinberg@noaa.gov.*

SUPPLEMENTARY INFORMATION: For further information, please visit the NEFSC Web site at *http://www.nefsc.noaa.gov.* For additional information about the SARC meeting and the stock assessment review of Black Sea Bass and Witch Flounder, please visit the NMFS/NEFSC SAW Web page at *http://www.nefsc.noaa.gov/saw/.*

DAILY MEETING AGENDA—SAW/SARC 62 Benchmark Stock Assessment for Black Sea Bass and Witch Flounder (Subject to Change. All Times Are Approximate, and May Be Changed at the Discretion of the SARC Chair).

Tuesday, November 29, 2016

10 a.m.–10:30 a.m.	Welcome Introductions	James Weinberg, SAW Chair.
10:30 a.m.–12:30 p.m.	Black Sea Bass Assessment Presentation	Gary Shepherd.
12:30 p.m.–1:30 p.m.	Lunch.	
1:30 p.m.–3:30 p.m.	BSB Presentation (cont.)	Gary Shepherd.

3:30 p.m.–3:45 p.m.	Break.	
3:45 p.m.–5:45 p.m.	BSB SARC Discussion	SARC Chair.
5:45 p.m.–6 p.m.	Public Comment Period.	

Wednesday, November 30, 2016

8:30 a.m.–10:30 a.m.	Witch Flounder (WF) Assessment Presentation	Susan Wigley.
10:30 a.m.–10:45 a.m.	Break.	
10:45 a.m.–12:30 p.m.	WF Presentation (cont.)	Susan Wigley.
12:30 p.m.–1:30 p.m.	Lunch.	
1:30 p.m.–3:30 p.m.	WF SARC Discussion	SARC Chair.
3:30 p.m.–3:45 p.m.	Public Comment Period.	
3:45 p.m.–4 p.m.	Break.	
4 p.m.–6 p.m.	BSB SARC Discussion	SARC Chair.

Thursday, December 1, 2016

8:30 a.m.–10:30 a.m.	Revisit WF with Presenters	SARC Chair.
10:30 a.m.–10:45 a.m.	Break.	
10:45 a.m.–12:15 p.m.	Review/Edit BSB Assessment Summary Report	SARC Chair.
12:15 p.m.–1:15 p.m.	Lunch.	
1:15 p.m.–2:45 p.m.	BSB Assessment Summary (cont.)	SARC Chair.
2:45 p.m.–3 p.m.	Break.	
3 p.m.–6 p.m.	Review/Edit WF Assessment Summary Report	SARC Chair.

Friday, December 2, 2016

9 a.m.–5 p.m.	SARC Report Writing	SARC Chair.

The meeting is open to the public; however, during the 'SARC Report Writing' sessions on December 1 and 2, the public should not engage in discussion with the SARC.

Special Accommodations

This meeting is physically accessible to people with disabilities. Special requests should be directed to Sheena Steiner at the NEFSC, 508–495–2177, at least 5 days prior to the meeting date.

Dated: March 10, 2016.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–05800 Filed 3–14–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE205

Atlantic Coastal Fisheries Cooperative Management Act Provisions; American Eel Fishery

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

ACTION: Notice of withdrawal of federal moratorium.

SUMMARY: NMFS announces the withdrawal of the Federal moratorium on fishing for American eel in the State waters of Delaware. NMFS withdraws the moratorium, as required by the Atlantic Coastal Fisheries Cooperative Management Act (Atlantic Coastal Act), based on the determination that Delaware is now in compliance with the Atlantic States Marine Fisheries Commission's (Commission) Interstate Fishery Management Plan for American Eel.

DATES: Effective March 15, 2016

ADDRESSES: Alan Risenhoover, Director, Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Room 13362, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Derek Orner, Fishery Management Specialist, NMFS Office of Sustainable Fisheries, (301) 427–8567; *derek.orner@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background

On August 6, 2015, the Commission found that the State of Delaware was out of compliance with the Commission's American Eel Plan. Specifically, the Commission found that Delaware had not implemented regulations that are necessary to rebuild the depleted American eel stock, and to ensure sustainable commercial and recreational harvest while preventing over-harvest of any eel life stage. The Commission forwarded its findings of their August 6th vote in a formal non-compliance referral letter that was received by NMFS on August 19, 2015. On September 18, 2015, NMFS notified the State of Delaware and the Commission of its determination that Delaware failed to carry out its responsibilities under the Commission's American Eel Plan and that the measures Delaware had failed to implement and enforce are necessary for the conservation of the eel resource. In this determination and notification, NMFS detailed the actions necessary to avoid the implementation of a Federal moratorium for eel in Delaware waters. Details of this determination were provided in a **Federal Register** notice published on September 23, 2015 (80 FR 57343), and are not repeated here.

Activities Pursuant to the Atlantic Coastal Act

The Atlantic Coastal Act specifies that, if, after a moratorium is declared with respect to a State, the Secretary is notified by the Commission that it is withdrawing the determination of noncompliance, the Secretary shall immediately determine whether the State is in compliance with the

applicable plan. If the State is determined to be in compliance, the moratorium shall be withdrawn. On February 4, 2016, NMFS received a letter from the Commission that Delaware had taken corrective action to comply with the American Eel Plan, and that the Commission has withdrawn its determination of noncompliance.

Withdrawal of the Moratorium

Based on the Commission's February 2, 2016, letter, information received from the State of Delaware, and NMFS review of Delaware's revised American eel regulations, NMFS concurs with the Commission's determination that Delaware is now in compliance with the American Eel Plan. Specifically, NMFS reviewed the ASMFC Eel Plan and Delaware's recently approved American eel management measures. The management measures implement a program that is consistent with the American eel management program set by the Commission to conserve eels and achieve the objectives specified in the Plan. Therefore, we concur with the Commission's finding that Delaware is now in compliance and that a moratorium is no longer necessary to conserve the fishery. The moratorium scheduled to be effective on March 18, 2016, on fishing for, possession of, and landing of American eel by the recreational and commercial fishermen within Delaware waters is withdrawn.

Authority: 16 U.S.C. 5101 *et seq.*

Dated: March 10, 2016.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–05804 Filed 3–14–16; 8:45 am]

BILLING CODE 3510–22–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No: CFPB–2016–0011]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Consumer Financial Protection Bureau (Bureau) is proposing a new information collection titled, ''Financial Well-Being National Survey.''

DATES: Written comments are encouraged and must be received on or before April 14, 2016 to be assured of consideration.

ADDRESSES: You may submit comments, identified by the title of the information collection, OMB Control Number (see below), and docket number (see above), by any of the following methods:

- *Electronic: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *OMB:* Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503 or fax to (202) 395–5806. Mailed or faxed comments to OMB should be to the attention of the OMB Desk Officer for the Bureau of Consumer Financial Protection. *Please note that comments submitted after the comment period will not be accepted.* In general, all comments received will become public records, including any personal information provided. Sensitive personal information, such as account numbers or social security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT: Documentation prepared in support of this information collection request is available at *www.reginfo.gov* (this link active on the day following publication of this notice). Select ''Information Collection Review,'' under ''Currently under review, use the dropdown menu ''Select Agency'' and select ''Consumer Financial Protection Bureau'' (recent submissions to OMB will be at the top of the list). The same documentation is also available at *http://www.regulations.gov.* Requests for additional information should be directed to the Consumer Financial Protection Bureau, (Attention: PRA Office), 1700 G Street NW., Washington, DC 20552, (202) 435–9575, or email: *CFPB_PRA@cfpb.gov. Please do not submit comments to this email box.*

SUPPLEMENTARY INFORMATION:

Title of Collection: Financial Well-Being National Survey.

OMB Control Number: 3170–XXXX.

Type of Review: New collection (Request for a new OMB control number).

Affected Public: Individuals.

Estimated Number of Respondents: 6,115.

Estimated Total Annual Burden Hours: 2,038.

Abstract: Under the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, the Bureau's Office of Financial Education (OFE) is responsible for developing and implementing a strategy to improve the financial literacy of consumers that includes measurable goals and initiatives, in consultation with the Financial Literacy and Education Commission, consistent with the National Strategy for Financial Literacy. In addition, the Office of Financial Protection for Older Americans (OA) within the CFPB is charged with conducting research to identify methods and strategies to educate and counsel seniors, and developing goals for programs that provide seniors with financial literacy and counseling.

Through prior research, the CFPB has determined that improvement in consumer financial well-being is the ultimate goal of such financial literacy initiatives. To inform our identification and development of financial literacy strategies that explicitly seek to improve consumer financial well-being, the CFPB plans to conduct a nationally representative survey to measure adult financial well-being and related concepts, as well as an oversample of adults age 62 and older to gather additional data relevant to the needs and experiences of older consumers. The specific goals of the survey are to (1) measure the level of financial well-being of American adults and key subpopulations; (2) quantitatively test previously developed hypotheses about the specific types of knowledge, behavior, traits and skills that may support higher levels of financial well-being; and (3) produce fully de-identified public use data files that will allow external researchers to examine additional questions about financial well-being and its drivers.

Request for Comments: The Bureau issued a 60-day **Federal Register** notice on November 24, 2015, (80 FR 73169). Comments were solicited and continue to be invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Bureau, including whether the information will have practical utility; (b) The accuracy of the Bureau's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Dated: March 8, 2016.

Darrin A. King,

Paperwork Reduction Act Officer, Bureau of Consumer Financial Protection.

[FR Doc. 2016–05767 Filed 3–14–16; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulation System

[Docket Number 2015–0039]

Submission for OMB Review; Comment Request

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

ACTION: Notice.

SUMMARY: The Defense Acquisition Regulations System has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Consideration will be given to all comments received by April 14, 2016.

SUPPLEMENTARY INFORMATION:

Title, Associated Forms, and OMB Number: Safeguarding Covered Defense Information, Cyber Incident Reporting, and Cloud Computing; Defense Federal Acquisition Regulation Supplement (DFARS) Parts 204 and 239, and related clauses at DFARS 252; OMB Control Number 0704–0478.

Type of Request: Revision of a currently approved collection.

Number of Respondents: 10,954.

Responses per Respondent: 5.5, approximately.

Annual Responses: 60,494.

Average Burden per Response: 4.15 hours, approximately.

Annual Burden Hours: 250,840.

Needs and Uses: This requirement provides for the collection of information related to reporting of cyber incidents on unclassified networks or information systems, within cloud computing services, and when they affect contractors designated as providing operationally critical support as required by statute.

a. The clause at DFARS 252.204–7012, Safeguarding Covered Defense Information and Cyber Incident Reporting, requires contractors to report cyber incidents that affect a covered contractor information system or the covered defense information residing therein.

b. The provision at DFARS 252.204–7008, Compliance with Safeguarding Covered Defense Information Controls, requires an offeror that proposes to deviate from any of the security controls of National Institute of Standards and Technology Special Publication 800–171 in effect at the time the solicitation is issued, the offeror must submit to the contracting officer a written explanation of how the specified security control is not applicable or an alternative control or protective measure is used to achieve equivalent protection.

c. The provision at DFARS 252.239–7009, Representation of Use of Cloud Computing, requires contractors to report that they ''anticipate'' or ''do not anticipate'' utilizing cloud computing service in performance of the resultant contract in order to notify contracting officers of the applicability of the requirement in the clause at DFARS 252.239–7010.

d. The clause at DFARS 252.239–7010, Cloud Computing Services, requires reporting of cyber incidents that occur when DoD is purchasing cloud computing services.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Frequency: On occasion.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

Instructions: All submissions received must include the agency name, docket number, and title for the **Federal Register** document. The general policy for comments and other public 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 provided. To confirm receipt of your comment(s), please check *http://www.regulations.gov* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

DoD Public Collections Clearance Officer: Mr. Frederick C. Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at: Publication Collections Program, WHS/ESD Information Management Division, 4800 Mark Center Drive, 2nd Floor, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Jennifer L. Hawes,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2016–05814 Filed 3–14–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2016–HA–0020]

Privacy Act of 1974; System of Records

AGENCY: Defense Health Agency, DoD.

ACTION: Notice to alter a System of Records.

SUMMARY: The Defense Health Agency proposes to alter an existing system of records, EDHA 11, entitled ''Defense Medical Human Resources System internet (DMHRSi).'' This system consolidates all of the human resources functions and permits ready access to manpower, personnel readiness, labor cost assignment, and education and training information across the DoD medical enterprise. This system of records provides a single database source of instant query/access for all personnel types and the readiness posture of all DoD medical personnel.

DATES: Comments will be accepted on or before April 14, 2016. This proposed action will be effective the date following the end of the comment period unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* *Federal Rulemaking Portal*: *http://www.regulations.gov.*

Follow the instructions for submitting comments.

* *Mail*: Department of Defense, Office of the Deputy Chief Management Officer, Directorate of Oversight and Compliance, Regulatory and Audit Matters Office, 9010 Defense Pentagon, Washington, DC 20301–9010.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any

personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Linda S. Thomas, Chief, Defense Health Agency Privacy and Civil Liberties Office, 7700 Arlington Boulevard, Suite 5101, Falls Church, VA 22042–5101, or by phone at (703) 681–7500.

SUPPLEMENTARY INFORMATION: The Defense Health Agency 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 the Defense Privacy and Civil Liberties Division Web site 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 March 3, 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 10, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

EDHA 11

SYSTEM NAME:

Defense Medical Human Resources System internet (DMHRSi) (November 19, 2014, 79 FR 68872).

Changes

* * * * *

SYSTEM LOCATION:

Delete entry and replace with: ''Defense Health Agency, 7700 Arlington Boulevard, Suite 5101, Falls Church, VA 222042–5101.''

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with ''Active Duty Military, Reserve, National Guard, civilian employees who are assigned to or are part of the Military Health System or the Defense Health Agency (DHA), and includes non-appropriated fund employees, DoD contractors, and volunteers.''

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Individual's name, date of birth, Social Security Number (SSN) and/or DoD Identification (ID) Number, National Provider Identifier (NPI), Common Access Card (CAC) expiration date, gender, place of birth, citizenship, home address, home telephone number, business email address, work address, work telephone number, race/ethnicity, marital status, medical training information including class names and class dates, military rank information, specialty, licensure, educational background, personnel security clearance data, medical readiness training and other health information required to determine an individual's fitness to perform their duties.''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; E.O. 12656, Assignment of Emergency Preparedness Responsibilities; DoDD 5136.01, Assistant Secretary of Defense for Health Affairs (ASD(HA)); DoDI 1322.24, Medical Readiness Training; DoD 6010.13–M, Medical Expense and Performance Reporting System for Fixed Military Medical and Dental Treatment Facilities Manual; and E.O. 9397 (SSN), as amended.''

PURPOSE(S):

Delete entry and replace with ''To consolidate all of the human resources functions and permit ready access to manpower, personnel readiness, labor cost assignment, and education and training information across the DoD medical enterprise. This system of records provides a single database source of instant query/access for all personnel types and the readiness posture of all DoD medical personnel.''

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with ''In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, these records may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD Blanket Routine Uses set forth at the beginning of the Defense Privacy and Civil Liberties Division 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://dpcld.defense.gov/Privacy/SORNsIndex/BlanketRoutineUses.aspx.''*

* * * * *

SAFEGUARDS:

Delete entry and replace with: ''Systems are maintained in a controlled area accessible only to authorized personnel with a valid requirement and authorization to enter. Physical entry is restricted by the use of locks, passwords which are changed periodically, and administrative procedures.

Users must have a CAC and an active user account in DMHRSi in order to access records created or maintained within the system. Access to personal information is restricted to those who require the data in the performance of their official duties. All personnel whose official duties require access to the information are trained in the proper safeguarding and use of the information.''

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Chief/Deputy Program Manager, Resources Division, Solutions Delivery Division, Defense Health Agency, 7700 Arlington Boulevard, Suite 5101, Falls Church, VA 22042–5101.''

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to Chief, Freedom of Information Act (FOIA) Service Center, Defense Health Agency Privacy and Civil Liberties Office, 7700 Arlington Boulevard, Suite 5101, Falls Church, VA 22042–5101.

Written requests should contain the individual's full name, home address, home phone number, and SSN/DoD ID number, the identifier of this system of records notice, and signature.

If requesting information about a legally incompetent person, the request must be made by the legal guardian or person with legal authority to make decisions on behalf of the individual. Written proof of that status may be required before the existence of any information will be confirmed.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)'.

If executed within the United States, its territories, possessions, or commonwealths: I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Chief, FOIA Service Center, Defense Health Agency Privacy and Civil Liberties Office, 7700 Arlington Boulevard, Suite 5101, Falls Church, VA 22042–5101.

Written requests for information should include the individual's full name, home address, home phone number, and SSN/DoD ID number, the identifier of this system of records notice, and signature.

If requesting information about a legally incompetent person, the request must be made by the legal guardian or person with legal authority to make decisions on behalf of the individual. Written proof of that status may be required before any records will be provided.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)'.

If executed within the United States, its territories, possessions, or commonwealths: I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'.''

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with ''DoD pay and personnel systems, the Defense Enrollment Eligibility Reporting Systems (DEERS), DoD medical facilities personnel, DoD supervisors, and DoD operational records.''

* * * * *

[FR Doc. 2016–05820 Filed 3–14–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2015–ICCD–0139]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; National Assessment of Educational Progress (NAEP) 2017–2019

AGENCY: National Center for Education Statistics (NCES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before April 14, 2016.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2015–ICCD–0139. 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–105, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Kashka Kubzdela at *kashka.kubzdela@ed.gov.*

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 Assessment of Educational Progress (NAEP) 2017–2019.

OMB Control Number: 1850–NEW (previously 1850–0790).

Type of Review: A new information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 865,522.

Total Estimated Number of Annual Burden Hours: 420,684.

Abstract: This information collection is a revision to information collection 1850–0790; however, the Department is requesting a new OMB control number in place of the old number. The National Assessment of Educational Progress (NAEP), conducted by the National Center for Education Statistics (NCES), is a federally authorized survey of student achievement at grades 4, 8, and 12 in various subject areas, such as mathematics, reading, writing, science, U.S. history, civics, geography, economics, technology and engineering literacy (TEL), and the arts. The National Assessment of Educational Progress Authorization Act (Pub. L. 107–279 title III, section 303) requires the assessment to collect data on specified student groups and characteristics, including information organized by race/ethnicity, gender, socio-economic status, disability, and limited English proficiency. It requires fair and accurate presentation of achievement data and permits the collection of background, noncognitive, or descriptive information that is related to academic achievement and aids in fair reporting of results. The intent of the law is to provide representative sample data on student achievement for the nation, the states, and subpopulations of students and to monitor progress over time. The nature of NAEP is that burden alternates from a relatively low burden in national-level administration years to a substantial burden increase in state-level administration years when the sample has to allow for estimates for individual states and some of the large urban districts. This submission requests OMB's approval for main NAEP assessments in 2017, 2018, and 2019, including operational, pilot, and special studies. The NAEP results will be reported to the public through the Nation's Report Card as well as other online NAEP tools. Please note that all of the documents in this information

collection have been updated since the 60 day public comment period.

Dated: March 10, 2016.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2016–05840 Filed 3–14–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC15–7–000]

Commission Information Collection Activities (FERC–915); Comment Request

AGENCY: Federal Energy Regulatory Commission, Energy.

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 its information collection FERC–915 (Public Utility Market-Based Rate Authorization Holders—Records Retention Requirements) 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 60-day notice (80 FR 28264, 5/18/2015) and a 30-day notice (80 FR 52469, 8/28/2015) in the **Federal Register** requesting public comments. The Commission received no comments on the FERC–915 in response to its previous notices. The Commission is issuing this notice to clarify the burden and cost (not related to burden) for the FERC–915 information collection. The Commission is requesting comment on these clarifications.

DATES: Comments on the collection of information are due by March 25, 2016.

ADDRESSES: Comments filed with OMB, identified by the OMB Control No. 1902–0250 or collection number (FERC–915), 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. IC15–7–000, 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:

Title: FERC–915, Public Utility Market-Based Rate Authorization Holders—Records Retention Requirements.

OMB Control No.: 1902–0250.

Type of Request: Three-year extension of the FERC–915 information collection requirements with no changes to the reporting requirements.

Abstract: The Commission has the regulatory responsibility under section 205 of the Federal Power Act (FPA) to ensure that wholesale sales of electricity are just and reasonable and provided in a non-discriminatory manner. The Commission uses the information maintained by the respondents under FERC–915 to monitor the entities' sales, ensure that the prices are just and reasonable, maintain the integrity of the wholesale jurisdictional sales markets, and ensure that the entities comply with the requirements of the FPA and any orders authorizing market-based rate sales. FERC–915 information collection requirements are contained in 18 Code of Federal Regulations part 35.41(d). The purpose of this notice is to clarify the burden and cost (not related to burden). Commission staff discovered that burden in the 60 and 30-day notices was incorrectly presented. Specifically, labor costs (for 1,955 burden hours) associated with electronic record retention/storage cost ($27,370) was not included in the burden table (but was presented elsewhere in the notices). Additionally, the electronic record storage cost should be $29,814 (rather than $13,191). These clarifications are provided in the ''Estimate of Annual Burden.''

Type of Respondents: Public Utility Market-Based Rate Authorization Holders.

Estimate of Annual Burden [1]*:* The Commission estimates the total Public Reporting Burden for this information collection as:

FERC–915—PUBLIC UTILITY MARKET-BASED RATE AUTHORIZATION HOLDERS—RECORD RETENTION REQUIREMENTS [2]

	Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden & cost per response	Total annual burden hours & total annual cost	Cost per respondent ($)
	(1)	(2)	(1)*(2) = (3)	(4)	(3)*(4) = (5)	(5) ÷ (1)
Electric Utilities with Market-Based Rate Authority (paper storage) [3].	1,955	1	1,955	1 hr.; $30.66	1,955 hrs.; $59,940.	$30.66
Electric Utilities with Market-Based Rate Authority (electronic storage) [4].	1,955	[5] 1	1,955	0.5 hr.; $14 [6]	977.5 hrs.; $27,370.	$14

[1] 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.

FERC–915—PUBLIC UTILITY MARKET-BASED RATE AUTHORIZATION HOLDERS—RECORD RETENTION REQUIREMENTS [2]—Continued

	Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden & cost per response	Total annual burden hours & total annual cost	Cost per respondent ($)
	(1)	(2)	(1)*(2) = (3)	(4)	(3)*(4) = (5)	(5) ÷ (1)
Total			[7] 1,955		2,932.5 hrs.; $87,310.	

Total Annual Cost Burden to Respondents:

• Record retention/storage cost for paper records (using an estimate of 48,891 cubic feet): $315,792 [8]

• Electronic record storage cost: 1,955 respondents * $15.25/year [9] = $29,814

Total non-labor costs: $345,606 ($315,792 + $29,814 = $345,606)

Comments: Comments are invited on: (1) whether the collection of information is 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 estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: March 9, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–05773 Filed 3–14–16; 8:45 am]

BILLING CODE 6717–01–P

[2] Each of these entities' records consist of 50% paper and 50% electronic records.

[3] The estimates for cost per response are derived using the following formula: Average Burden Hours per Response * $30.66 per Hour = Average Cost per Response. The hourly cost figure comes from the Bureau of Labor Statistics Web site (*http://www.bls.gov/oes/current/naics2_22.htm*). The occupation title is ''file clerk'' and the occupation code is 43–4071. 69.4 percent of this cost is hourly wages. The rest of the cost is benefits (*http://www.bls.gov/news.release/ecec.nr0.htm*).

[4] Upon further research, Commission staff discovered that both the 60-day (80 FR 28264, 5/18/2015) and 30-day (80 FR 52469, 8/28/2015) notices had accounted for electronic storage cost incorrectly. The burden table has been corrected to include labor related to electronic storage in this row. The number of responses and related burden/cost has been adjusted.

[5] Only 50% of records for each entity are stored in electronic format.

[6] The Commission bases the $28/hour figure on a FERC staff study that included estimating public utility recordkeeping costs.

[7] The total number of responses will be 1,955 due to the Commisson's assumption that each entity has records in both paper and electronic storage.. The burden for each category of storage is separated by row in this burden table.

[8] The Commission bases this figure on industry archival storage costs.

[9] The Commission bases the estimated $15.25/year for each entity on the estimated cost to service and to store 1 GB of data (based on the aggregated cost of an IBM advanced data protection server).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER16–644–000.
Applicants: Entergy Arkansas, Inc.
Description: Response of Entergy Arkansas Inc. to February 26, 2016 Deficiency Letter.
Filed Date: 3/8/16.
Accession Number: 20160308–5260.
Comments Due: 5 p.m. ET 3/29/16.

Docket Numbers: ER16–806–001.
Applicants: Nassau Energy, LLC.
Description: Tariff Amendment: Supplement to MBR Application & Request for Shortened Comment Period to be effective 3/27/2016.
Filed Date: 3/8/16.
Accession Number: 20160308–5205.
Comments Due: 5 p.m. ET 3/29/16.

Docket Numbers: ER16–1100–000.
Applicants: Cambria CoGen Company.
Description: Request for Limited Temporary Waiver of Cambria Cogen Company.
Filed Date: 3/7/16.
Accession Number: 20160307–5210.
Comments Due: 5 p.m. ET 3/21/16.

Docket Numbers: ER16–1103–000.
Applicants: East Kentucky Power Cooperative, Inc.
Description: Request for Limited Temporary Waiver of East Kentucky Power Cooperative, Inc.
Filed Date: 3/7/16.
Accession Number: 20160307–5255.
Comments Due: 5 p.m. ET 3/21/16.

Docket Numbers: ER16–1116–000.
Applicants: Midcontinent Independent System Operator, Inc., ALLETE, Inc.
Description: Notice of Cancellation of Midcontinent Independent System Operator, Inc. for Network Integration Transmission Service Agreement Between ALLETE, Inc. and Great River Energy.
Filed Date: 3/8/16.
Accession Number: 20160308–5259.
Comments Due: 5 p.m. ET 3/29/16.

Docket Numbers: ER16–1117–000.
Applicants: Flanders Energy LLC.
Description: Notice of cancellation of market based rate tariff of Flanders Energy, LLC.
Filed Date: 3/8/16.
Accession Number: 20160308–5263.
Comments Due: 5 p.m. ET 3/29/16.

Docket Numbers: ER16–1119–000.
Applicants: Castlebridge Energy Group LLC.
Description: Castlebridge Energy Group, LLC submits notification of cancellation of its market based rate tariff.
Filed Date: 3/8/16.
Accession Number: 20160309–0001.
Comments Due: 5 p.m. ET 3/29/16.

Docket Numbers: ER16–1120–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Section 205(d) Rate Filing: 2016–03–09_Attachment X External NRIS Filing to be effective 3/10/2016.
Filed Date: 3/9/16.
Accession Number: 20160309–5066.
Comments Due: 5 p.m. ET 3/30/16.

Docket Numbers: ER16–1123–000.
Applicants: Shelby County Energy Center, LLC.
Description: Section 205(d) Rate Filing: Notice of Succession to Reactive Tariff to be effective 3/1/2016.
Filed Date: 3/9/16.
Accession Number: 20160309–5092.
Comments Due: 5 p.m. ET 3/30/16.

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 9, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–05771 Filed 3–14–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14751–000]

Alpine Pacific Utilities, LLC; Notice of Intent To File License Application, Filing of Pre-Application Document, Approving Use of the Traditional Licensing Process

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 14751–000.

c. *Date Filed:* January 28, 2016.

d. *Submitted By:* Alpine Pacific Utilities, LLC.

e. *Name of Project:* Fresno Dam Site Water Power Project.

f. *Location:* On the Milk River in Hill County, Montana near the town of Kremlin at the existing Bureau of Reclamation Fresno Dam.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. Potential *Applicant Contact:* Justin D. Ahmann, Alpine Pacific Utilities, LLC, 111 Legend Trail, Kalispell, MT 59901.

i. *FERC Contact:* Ryan Hansen at (202) 502–8074; or email at *ryan.hansen@ferc.gov.*

j. Alpine Pacific Utilities, LLC filed its request to use the Traditional Licensing Process on February 2, 2016. Alpine Pacific Utilities, LLC provided public notice of its request on February 8, 2016. In a letter dated March 9, 2016, the Director of the Division of Hydropower Licensing approved Alpine Pacific Utilities, LLC's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR part 402; and NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920. We are also initiating consultation with the Montana State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. Alpine Pacific Utilities, LLC filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

m. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCONlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and reproduction at the address in paragraph h.

n. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: March 9, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–05774 Filed 3–14–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RD16–2–000]

Proposed Agency Information Collection

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice and request for comments.

SUMMARY: The Federal Energy Regulatory Commission (Commission) invites public comment in Docket No. RD16–2–000 on a proposed change to collections of information FERC–725P (OMB Control No. 1902–0269) and FERC–725P1 (OMB Control No. 1902–0280) that the Commission is submitting to the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995. The Commission previously issued a Notice in the **Federal Register** (81 FR 230, January 5, 2016) requesting public comments. The Commission received no comments and is making this notation in the submittals to OMB.

DATES: Comments regarding the proposed information collections must be received on or before April 14, 2016.

ADDRESSES: Comments filed with OMB, identified by the OMB Control Nos. 1902–0269 (FERC–725P) and 1902–0280 (FERC–725P1), should be sent via email to the Office of Information and Regulatory Affairs at: *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. RD16–2–000, 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,* telephone at (202) 502–8663, and fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Titles: FERC–725P (Mandatory Reliability Standards: Reliability Standard PRC–005–3) and FERC–725P1 (Mandatory Reliability Standards: PRC–005 Reliability Standard)

OMB Control Nos.: 1902–0269 (FERC–725P) and 1902–0280 (FERC–725P1)

Type of Request: Three-year extension of the FERC–725P1 information collection requirements with the stated

changes to the current reporting and record retention requirements, and elimination of the requirements of FERC–725P.

Abstract: Reliability Standard PRC–005–6 (Protection System, Automatic Reclosing, and Sudden Pressure Relaying Maintenance) replaces or supplements requirements from previous versions of the PRC–005 Reliability Standard, which are approved under FERC–725P and FERC–725P1. The requirements and associated burden of Reliability Standard PRC–005–6 will be included in FERC–725P1.[1]

The Commission requires the information collected by the FERC–725P1 to implement the statutory provisions of section 215 of the Federal Power Act (FPA).[2] On August 8, 2005, Congress enacted into law the Electricity Modernization Act of 2005, which is Title XII, Subtitle A, of the Energy Policy Act of 2005 (EPAct 2005).[3] EPAct 2005 added a new section 215 to the FPA, which required a Commission-certified Electric Reliability Organization (ERO) to develop mandatory and enforceable Reliability Standards, which are subject to Commission review and approval. Once approved, the Reliability Standards may be enforced by the ERO subject to Commission oversight, or the Commission can independently enforce Reliability Standards.[4]

On February 3, 2006, the Commission issued Order No. 672, implementing section 215 of the FPA.[5] Pursuant to Order No. 672, the Commission certified one organization, North American Electric Reliability Corporation (NERC), as the ERO.[6] The Reliability Standards developed by the ERO and approved by the Commission apply to users, owners, and operators of the Bulk-Power System as set forth in each Reliability Standard. On November 13, 2015, NERC filed a petition for Commission approval of proposed Reliability Standard PRC–005–6 (Protection System, Automatic Reclosing, and Sudden Pressure Relaying Maintenance). NERC also requested approval of the proposed implementation plan for PRC–005–6, and the retirement of previous versions of Reliability Standard PRC–005.

NERC explained in its petition that Reliability Standard PRC–005–6 represents an improvement upon the most recently-approved version of the standard, PRC–005–4.[7] FERC approved the proposed Reliability Standard PRC–005–6 on December 18, 2015.[8]

Type of Respondents: Transmission Owners (TO), Generator Owners (GO), and Distribution Providers (DP).

Estimate of Annual Burden:[9] Estimates for the changes to burden and cost due to Docket No. RD16–2–000 follow.

[1] In the future, to consolidate reporting requirements associated with the PRC Standards, the Commission plans to transfer the burden associated with Reliability Standard PRC–005–6 to FERC–725G (OMB Control No. 1902–0252) and to remove it from FERC–725P1. Note that, if approved by OMB, the FERC–725P (a temporary collection number) will have a 0 burden and will be eliminated by this action and the changes in Docket No. RD16–2.

[2] 16 U.S.C. 824*o* (2012).

[3] Energy Policy Act of 2005, Public Law 109–58, Title XII, Subtitle A, 119 Stat. 594, 941 (codified at 16 U.S.C. 824*o*).

[4] 16 U.S.C. 824*o*(e)(3).

[5] *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards,* Order No. 672, FERC Stats. & Regs. ¶ 31,204, *order on reh'g,* Order No. 672–A, FERC Stats. & Regs. ¶ 31,212 (2006).

[6] *North American Electric Reliability Corp.,* 116 FERC ¶ 61,062, *order on reh'g and compliance,* 117 FERC ¶ 61,126 (2006), *order on compliance,* 118 FERC ¶ 61,190, *order on reh'g,* 119 FERC ¶ 61,046 (2007), *aff'd sub nom. Alcoa Inc.* v. *FERC,* 564 F.3d 1342 (D.C. Cir. 2009).

[7] As noted in NERC's petition, NERC filed a separate motion to delay implementation of the approved, but not yet effective, versions of the PRC–005 Reliability Standard in Docket Nos. RM14–8–000 (PRC–005–3), RD15–3–000 (PRC–005–3(i)), and RM15–9–000 (PRC–005–4) until after the Commission issues an order or rule regarding proposed PRC–005–6. NERC's motion was granted in a delegated letter order issued December 4, 2015. See North American Elec. Reliability Corp., Docket Nos. RM14–8–000 et al. (Dec. 4, 2015) (delegated letter order).

[8] The Delegated Letter Order is available in FERC's eLibrary at *http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14076238.*

[9] 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 information, refer to 5 CFR 1320.3.

CHANGES MADE IN RD16–2–000

Requirements in reliability standard	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 cost (3)*(4) = (5)	Total annual cost per respondent ($)
FERC–725P (Reduction due to Replacement of PRC–005–3) [10] [11]						
One-time review of existing plant and substation sites to determine which ones fall under PRC–005–3 [reduction].	[12] 937	−1	−937	2 hrs.; $146	−1,874 hrs.; −$136,802.	−146
One-time review and adjustment of existing program [reduction].	[13] 288	−1	−288	8 hrs.; $584	−2,304 hrs.; −$168,192.	−584
Total Net Decrease to FERC–725P.	.....	.....	−1,225	.....	−4,178 hrs.; −$304,994.	.....
FERC–725P1						
Replacement of PRC–005–4 [14] [15]—One-time review of sudden pressure relay maintenance program and adjustment (Burden Reduction).	1,287	−1	−1,287	8 hrs.; $522.72 ...	−10,296 hrs.; −$672,740.64.	−522.72
Implementation of PRC–005–6—One-time review of existing plant and substation sites to determine which ones fall under PRC–005–6 [16] (Burden Increase).	[17] 937	1	937	2 hrs.; $145	1,874 hrs.; $135,396.50.	144.50
Implementation of PRC–005–6—One-time review and adjustment of existing program for reclosing relays and associated equipment [18] (Burden Increase).	288	1	288	8.5 hrs.; $614	2,448 hrs.; $176,868.	614
Implementation of PRC–005–6—One-time review and adjustment of existing program for sudden pressure relays [19] (Burden Increase).	1,287	1	1,287	8 hrs.; $531.60 ...	10,296 hrs.; $684,169.20.	531.60
Total Net Increase to FERC–725P1.	.....	.....	+1,225	.....	4,322 hrs.; $323,693.06.	.....
Total Net Change, due to RD16–2.	.....	.....	0	.....	144 hrs.; $18,699.06.	.....

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.

Dated: March 9, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–05775 Filed 3–14–16; 8:45 am]

BILLING CODE 6717–01–P

[10] The estimates for cost per response are derived using the following formula: Average Burden Hours per Response * $73 per Hour = Average Cost per Response. The hourly cost figure comes from the average of the salary plus benefits for a manager and an engineer (rounded to the nearest dollar). The figures are taken from the Bureau of Labor Statistics [BLS] at (*http://bls.gov/oes/current/naics3_221000.htm*).

[11] Implemented in Docket No. RM14–8.

[12] This figure reflects the generator owners and transmission owners identified in the NERC Compliance Registry as of May 28, 2014.

[13] This figure is a subset of GOs and TOs, as discussed in Order 803 (Docket No. RM14–8), P 41.

[14] Implemented in Docket No. RM15–9.

[15] The estimates for cost per response are derived using the following formula: Average Burden Hours per Response * $65.34 per Hour = Average Cost per Response. The hourly cost figure comes from the average of the wages plus benefits for an engineer (rounded to the nearest dollar). The figures are based on information from the Bureau of Labor Statistics (at *http://bls.gov/oes/current/naics3_221000.htm*).

[16] The average hourly cost (wages plus benefits) is estimated to be $72.25 (and is based on BLS May 2014 Data, updated 8/2015). It is based on the average of the hourly wages plus benefits of:

- Management (occupation code 11–0000, $78.04 per hour) and
- electrical engineer (occupation code 17–2071, $66.45 per hour).

[17] This figure reflects the generator owners and transmission owners identified in the NERC Compliance Registry as of May 28, 2014.

[18] The average hourly cost (wages plus benefits) is estimated to be $72.25 (and is based on BLS May 2014 Data, updated 8/2015). It is based on the average of the hourly wages plus benefits of:

- Management (occupation code 11–0000, $78.04 per hour) and
- electrical engineer (occupation code 17–2071, $66.45 per hour).

[19] The average hourly cost (wages plus benefits) is estimated to be $66.45, based on BLS estimates for an electrical engineer.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting Notice

The following notice of meeting is published pursuant to section 3(a) of the government in the Sunshine Act (Pub. L. 94–409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: March 17, 2016, 10:00 a.m.

PLACE: Room 2C, 888 First Street NE., Washington, DC 20426.

STATUS: OPEN.

MATTERS TO BE CONSIDERED: Agenda, *NOTE—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kimberly D. Bose, Secretary, Telephone (202) 502–8400. For a recorded message listing items struck from or added to the meeting, call (202) 502–8627.

This is a list of matters to be considered by the Commission. It does not include a listing of all documents relevant to the items on the agenda. All public documents, however, may be viewed on line at the Commission's Web site at *http://www.ferc.gov* using the eLibrary link, or may be examined in the Commission's Public Reference Room.

1025TH—MEETING, REGULAR MEETING, MARCH 17, 2016, 10:00 A.M.

Item No.	Docket No.	Company
	ADMINISTRATIVE	
A–1	AD16–1–000	Agency Administrative Matters.
A–2	AD16–7–000	Customer Matters, Reliability, Security and Market Operations.
A–3	AD06–3–000	2015 State of the Markets.
A–4	AD15–12–000	Transmission Investment Metrics.
	ELECTRIC	
E–1	RM16–8–000	Requirements for Frequency and Voltage Ride Through Capability of Small Generating Facilities.
E–2	RM15–8–000	Relay Performance During Stable Power Swings Reliability Standard.
E–3	ER16–139–000, ER16–139–001	Southwest Power Pool, Inc.
E–4	ER16–636–000	Southwest Power Pool, Inc.
E–5	OMITTED.	
E–6	ER12–1574–000	Kentucky Utilities Company
E–7	ER16–445–000	San Diego Gas & Electric Company
E–8	ER15–572–001, ER15–572–004	New York Independent System Operator, Inc.
E–9	ER14–1640–000	Entergy Gulf States Louisiana, L.L.C.
	ER14–1641–000	Entergy Louisiana, LLC.
	ER14–1642–000	Entergy Mississippi, Inc.
	ER14–1643–000	Entergy New Orleans, Inc.
	ER14–1644–000 (consolidated)	Entergy Texas, Inc.
E–10	ER13–685–000, ER13–685–001, ER13–687–000, ER13–690–000.	Public Service Company of New Mexico.
E–11	ER15–234–000, ER15–689–000, ER15–689–001	Duke Energy Carolinas, LLC.
E–12	ER15–1825–001	California Independent System Operator Corporation.
E–13	OMITTED.	
E–14	OMITTED.	
E–15	ER14–2866–003, ER14–2866–004	Louisville Gas and Electric Company and Kentucky Utilities Company.
E–16	OMITTED.	
E–17	EL15–75–000	The City of Alexandria, Louisiana.
E–18	EL16–1–000	Heartland Consumers Power District.
E–19	EL05–55–003	City of Holland, Michigan v. Midwest Independent Transmission System Operator, Inc.
	EL05–63–005	DTE Energy Trading, Inc. v. Midwest Independent Transmission System Operator, Inc.
E–20	EL15–84–001	Caithness Long Island II, LLC v. New York Independent System Operator, Inc.
E–21	ER15–266–000, ER15–266–001	Public Service Company of Colorado.
E–22	EL15–55–001	Pacific Gas and Electric Company.
E–23	EL15–86–000	ITC Grid Development, LLC.
E–24	EL16–9–000	Big Sandy Peaker Plant, LLC, Wolf Hills Energy, LLC, Crete Energy Venture, LLC, Lincoln Generating Facility, LLC, Rolling Hills Generating, L.L.C. v. PJM Interconnection, L.L.C.
E–25	ER11–2814–001, ER11–2815–001, ER11–2814–002, ER11–2814–004, ER11–2815–002, ER11–2815–003, ER11–2815–004, ER11–2815–006.	PJM Interconnection, L.L.C.
	ER11–3279–001, ER11–3279–002, ER11–3279–003	Midwest Independent Transmission System Operator, Inc.
	GAS	
G–1	RM96–1–039	Standards for Business Practices of Interstate Natural Gas Pipelines.
G–2	RP06–569–008, RP07–376–005, (consolidated)	Transcontinental Gas Pipe Line Corporation.

1025TH—MEETING, REGULAR MEETING, MARCH 17, 2016, 10:00 A.M.—Continued

Item No.	Docket No.	Company
G–3	RP16–314–000	Columbia Gas Transmission, LLC.
	HYDRO	
H–1	P–10200–014	Congdon Pond Hydro, LLC.
H–2	P–10489–015	City of River Falls, Wisconsin.
H–3	P–2660–027	Woodland Pulp LLC.
H–4	P–14648–001	Owyhee Hydro, LLC.
	CERTIFICATES	
C–1	CP13–91–001, CP13–92–001, CP13–93–001	Gulf South Pipeline Company, LP.
C–2	OMITTED.	
C–3	CP15–505–000	Natural Gas Pipeline Company of America LLC.
C–4	CP16–70–000	Impulsora Pipeline, LLC.

Issued: March 10, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

A free webcast of this event is available through *www.ferc.gov.* Anyone with Internet access who desires to view this event can do so by navigating to *www.ferc.gov's* Calendar of Events and locating this event in the Calendar. The event will contain a link to its webcast. The Capitol Connection provides technical support for the free webcasts. It also offers access to this event via television in the DC area and via phone bridge for a fee. If you have any questions, visit *www.CapitolConnection.org* or contact Danelle Springer or David Reininger at 703–993–3100.

Immediately following the conclusion of the Commission Meeting, a press briefing will be held in the Commission Meeting Room. Members of the public may view this briefing in the designated overflow room. This statement is intended to notify the public that the press briefings that follow Commission meetings may now be viewed remotely at Commission headquarters, but will not be telecast through the Capitol Connection service.

[FR Doc. 2016–05869 Filed 3–11–16; 11:15 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP15–138–000]

Transcontinental Gas Pipe Line Company, LLC; Notice of Schedule for Environmental Review of the Atlantic Sunrise Expansion Project

On March 31, 2015, Transcontinental Gas Pipe Line Company, LLC (Transco) a subsidiary of Williams Partners L.P. (Williams), filed an application with the Federal Energy Regulatory Commission (FERC or Commission) in Docket No. CP15–138–000 requesting authorization pursuant to section 7(c) of the Natural Gas Act (NGA) and part 157 of the Commission's regulations to construct, operate, and maintain expansions of its existing interstate natural gas pipeline system in Pennsylvania, Maryland, Virginia, North Carolina, and South Carolina. The proposed project, referred to as the Atlantic Sunrise Expansion Project (Project), would provide 1,700,000 dekatherms per day of natural gas transportation service from various receipt points in Pennsylvania to various delivery points along Transco's existing interstate pipeline system.

FERC issued its Notice of Application for the Project on April 8, 2015. Among other things, the notice alerted other agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on the request for a federal authorization within 90 days of the date of issuance of the Commission staff's final environmental impact statement (EIS) for the Project. This notice identifies the FERC staff's planned schedule for completion of the final EIS for the Project.

Schedule for Environmental Review

Issuance of Notice of Availability of the final EIS October 21, 2016

90-day Federal Authorization Decision Deadline January 19, 2017

If a schedule change becomes necessary, an additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

Project Description

The Project includes about 197.7 miles of pipeline composed of the following facilities:

- 183.7 miles of new 30- and 42-inch-diameter greenfield [1] natural gas pipeline;
- 11.5 miles of new 36- and 42-inch-diamater pipeline looping; [2]
- 2.5 miles of 30-inch-diameter replacements; and
- associated equipment and facilities.

The Project's aboveground facilities consist of two new compressor stations; additional compression and related modifications to three existing compressor stations; two new meter stations and three new regulator stations; and minor modifications at existing aboveground facilities at various locations to allow for bi-directional flow and the installation of supplemental odorization, odor detection, and/or odor masking/deodorization equipment.

Background

On April 4, 2014, the Commission staff granted Transco's request to use the FERC's pre-filing environmental review process and assigned the Project Docket No. PF14–8–000. On July 18, 2014, the Commission issued a *Notice of Intent to Prepare an Environmental Impact Statement for the Planned Atlantic Sunrise Expansion Project, Request for Comments on Environmental Issues, and Notice of Public Scoping Meetings* (NOI). The NOI was sent to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; affected property owners; other interested parties; and local libraries and newspapers. Major issues raised

[1] A ''greenfield'' pipeline crosses land previously untouched by natural gas infrastructure rather than using existing rights-of-way.

[2] ''Looping'' is the practice of installing a pipeline in parallel to another pipeline to increase the capacity along an existing stretch of right-of-way, often beyond what can be achieved by one pipeline or pipeline expansion.

during scoping include potential impacts on forested areas, groundwater, and threatened and endangered species; socioeconomic impacts; land use and recreational impacts; air quality; safety; potential cumulative impacts; and potential alternative routes. The U.S. Army Corps of Engineers is a cooperating agency in the preparation of the EIS.

Additional information about the Project may be obtained by contacting the Environmental Project Manager, Joanne Wachholder, by telephone at (202) 502–8056 or by electronic mail at *joanne.wachholder@ferc.gov.*

Dated: March 9, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–05772 Filed 3–14–16; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9943–71–OAR]

Request for Nominations for the Mobile Sources Technical Review Subcommittee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Request for nominations for the mobile sources technical review subcommittee.

SUMMARY: The U.S. Environmental Protection Agency (EPA) invites nominations from a diverse range of qualified candidates to be considered for appointment to its Mobile Sources Technical Review Subcommittee (MSTRS). Vacancies are anticipated to be filled by Spring, 2017. Sources in addition to this **Federal Register** document may also be utilized in the solicitation of nominees.

DATES: Nominations must be postmarked or emailed by April 8, 2016.

ADDRESSES: Submit nominations to: Courtney McCubbin, Designated Federal Officer, Office of Transportation and Air Quality, U.S. Environmental Protection Agency (6406A), 1200 Pennsylvania Avenue NW., Washington, DC 20460. You may also email nominations with subject line MSTRS2016 to *mccubbin.courtney@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Courtney McCubbin, Designated Federal Officer, U.S. EPA; telephone: (202) 564–2436; email: *mccubbin.courtney@epa.gov.*

SUPPLEMENTARY INFORMATION:

Background: The MSTRS is a federal advisory committee chartered under the Federal Advisory Committee Act (FACA), Public Law 92–463. The MSTRS provides the Clean Air Act Advisory Committee (CAAAC) with independent advice, counsel and recommendations on the scientific and technical aspects of programs related to mobile source air pollution and its control.

Through its expert members from diverse stakeholder groups and from its various workgroups, the subcommittee reviews and addresses a wide range of developments, issues and research areas such as emissions modeling, emission standards and standard setting, air toxics, innovative and incentive-based transportation policies, onboard diagnostics, heavy-duty engines, diesel retrofit, fuel quality and greenhouse gases. The Subcommittee's Web site is at: *http://www.epa.gov/caaac/mobile-sources-technical-review-subcommittee-mstrs-caaac.*

Members are appointed by the EPA Administrator for three year terms with the possibility of reappointment to a second term. The MSTRS usually meets two times annually and the average workload for the members is approximately 5 to 10 hours per month. EPA provides reimbursement for travel and other incidental expenses associated with official government business for members who qualify.

EPA is seeking nominations from representatives of nonfederal interests such as:

- Future transportation options and shared mobility interests
- Mobile source emission modeling interests
- Transportation and supply chain shippers
- Marine and inland port interests
- Environmental advocacy groups
- Community and/or environmental justice interests
- State and local government interests

EPA values and welcomes diversity. In an effort to obtain nominations of diverse candidates, EPA encourages nominations of women and men of all racial and ethnic groups.

In selecting members, we will consider technical expertise, coverage of broad stakeholder perspectives, diversity and the needs of the subcommittee.

The following criteria will be used to evaluate nominees:

- The background and experiences that would help members contribute to the diversity of perspectives on the committee (*e.g.,* geographic, economic, social, cultural, educational, and other considerations);
- Experience working with future transportation options and shared mobility;
- Experience working with the modeling of mobile source emissions;
- Experience working with producers of passenger cars, engines and trucks, engine and equipment manufacturing;
- Experience working with fuel or renewable fuel producers;
- Experience working with oil refiners, distributors and retailers of mobile source fuels;
- Experience working with clean energy producers;
- Experience working with agricultural producers (corn and other crop products), distillers, processors and shippers of biofuels;
- Experience working with emission control manufacturers, catalyst and filter manufacturers;
- Experience working for State and local environmental agencies or State Air Pollution Control Agencies;
- Experience working for environmental advocacy groups;
- Experience working for environmental and/or community groups;
- Experience working with supply chain logistics and goods movement;
- Experience working with marine port interests;
- Experience in working at the national level on local governments issues;
- Demonstrated experience with environmental and sustainability issues;
- Executive management level experience with membership in broad-based networks;
- Excellent interpersonal, oral and written communication and consensus-building skills;
- Ability to volunteer time to attend meetings two times a year, participate in teleconference and webinar meetings, attend listening sessions with the Administrator or other senior-level officials, develop policy recommendations to the Administrator, and prepare reports and advice letters.

Nominations must include a resume and a short biography describing the professional and educational qualifications of the nominee, as well as the nominee's current business address, email address, and daytime telephone number. Interested candidates may self-nominate.

To help the Agency in evaluating the effectiveness of its outreach efforts, please tell us how you learned of this opportunity.

Please be aware that EPA's policy is that, unless otherwise prescribed by statute, members generally are appointed to three-year terms.

Dated: March 3, 2016.

Karl Simon,

Director, Transportation and Climate Division, Office of Transportation and Air Quality.

[FR Doc. 2016–05817 Filed 3–14–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2015–0436; FRL–9943–14]

Agency Information Collection Activities; Proposed Renewal of an Existing Collection (EPA ICR No. 1139.11); Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this document announces that EPA is planning to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB). The ICR, entitled: ''TSCA Section 4 Test Rules, Consent Orders, Enforceable Consent Agreements, Voluntary Testing Agreements, Voluntary Data Submissions, and Exemptions from Testing Requirements'' and identified by EPA ICR No. 1139.11 and OMB Control No. 2070–0033, represents the renewal of an existing ICR that is scheduled to expire on August 31, 2016. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection that is summarized in this document. The ICR and accompanying material are available in the docket for public review and comment.

DATES: Comments must be received on or before May 16, 2016.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2015–0436, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

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

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Mike Mattheisen, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–3077; email address: *mattheisen.mike@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What information is EPA particularly interested in?

Pursuant to PRA section 3506(c)(2)(A) (44 U.S.C. 3506(c)(2)(A)), EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.

2. Evaluate the accuracy of the Agency's estimates of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

3. Enhance the quality, utility, and clarity of the information to be collected.

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

II. What information collection activity or ICR does this action apply to?

Title: TSCA Section 4 Test Rules, Consent Orders, Enforceable Consent Agreements, Voluntary Testing Agreements, Voluntary Data Submissions, and Exemptions from Testing Requirements.

ICR number: EPA ICR No. 1139.11.

OMB control number: OMB Control No. 2070–0033.

ICR status: This ICR is currently scheduled to expire on August 31, 2016. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the Code of Federal Regulations (CFR), after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: Section 4 of the Toxic Substances Control Act (TSCA) is designed to assure that chemicals that may pose serious risks to human health or the environment undergo testing by manufacturers or processors, and that the results of such testing are made available to EPA. EPA uses the information collected under the authority of TSCA section 4 to assess risks associated with the manufacture, processing, distribution, use or disposal of a chemical, and to support any necessary regulatory action with respect to that chemical.

EPA must assure that appropriate tests are performed on a chemical if it decides: (1) That a chemical being considered under TSCA section 4(a) may pose an ''unreasonable risk'' or is produced in ''substantial'' quantities that may result in substantial or significant human exposure or substantial environmental release of the chemical; (2) that additional data are needed to determine or predict the impacts of the chemical's manufacture, processing, distribution, use or disposal; and (3) that testing is needed to develop such data. Rules and consent orders under TSCA section 4 require that one manufacturer or processor of a subject chemical perform the specified testing and report the results of that testing to EPA. TSCA section 4 also allows a manufacturer or processor of a subject chemical to apply for an exemption from the testing requirement if that testing will be or has been performed by another party. This information collection applies to reporting and recordkeeping activities associated with the information that EPA requires industry to provide in response to TSCA section 4 test rules, consent orders, test rule exemptions and other data submissions.

Responses to the collection of information are mandatory (see 40 CFR part 790). Respondents may claim all or part of a notice as CBI. EPA will disclose information that is covered by a CBI claim only to the extent permitted by, and in accordance with, the procedures in 40 CFR part 2.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to range between 8.5 and 243 hours per response, not including CDX registration, and 0.53 hours per CDX registration. Burden is defined in 5 CFR 1320.3(b).

The ICR, which is available in the docket along with other related materials, provides a detailed explanation of the collection activities and the burden estimate that is only briefly summarized here:

Respondents/Affected Entities: Entities potentially affected by this ICR are manufacturers, processors, importers, users, distributors or disposers of one or more specified chemical substances.

Estimated total number of potential respondents: 15.

Frequency of response: On occasion.

Estimated total average number of responses for each respondent: 5.6.

Estimated total annual burden hours: 3,055 hours.

Estimated total annual costs: $27,089,112. This includes an estimated burden cost of $58,917 and an estimated cost of $27,030,195 for capital investment or maintenance and operational costs (namely laboratory test costs).

III. Are there changes in the estimates from the last approval?

There is a decrease of 626,838 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This decrease mainly reflects corrections to the previous renewal of this collection, plus reduced levels of activity in test rules, methodological corrections and updates, and requirements for electronic reporting of information. This change is both a program change (electronic reporting) and an adjustment (all other).

IV. What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** document pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

Authority: 44 U.S.C. 3501 *et seq.*

Dated: March 3, 2016.

James Jones,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2016–05821 Filed 3–14–16; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 8, 2016.

A. Federal Reserve Bank of Boston (Prabal Chakrabarti, Senior Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02210–2204. Comments can also be sent electronically to *BOS.SRC.Applications.Comments@bos.frb.org:*

1. *Randolph Bancorp, Inc.,* Stoughton, Massachusetts; to become a bank holding company by acquiring 100 percent of the voting shares of Randolph Savings Bank, Stoughton, Massachusetts, with the conversion of Randolph Bancorp, from mutual to stock form.

Board of Governors of the Federal Reserve System, March 10, 2016.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2016–05778 Filed 3–14–16; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act (PRA), to approve of and assign OMB numbers to collection of information requests and requirements conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the PRA Submission, supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB number.

DATES: Comments must be submitted on or before May 16, 2016.

ADDRESSES: You may submit comments, identified by *FR 4198* or *FR 4203* by any of the following methods:

- *Agency Web site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: regs.comments@federalreserve.gov.* Include OMB number in the subject line of the message.
- *FAX:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Robert deV. Frierson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room 3515, 1801 K Street (between 18th and 19th Streets NW.) Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW., Washington, DC 20503 or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Federal Reserve Board's public Web site at: *http://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Request for Comment on Information Collection Proposal

The following information collection, which is being handled under this delegated authority, has received initial Board approval and is hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions, including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Proposal To Approve Under OMB Delegated Authority the Extension for Three Years, Without Revision, of the Following Reports

1. Report title: Funding and Liquidity Risk Management Guidance.

Agency form number: FR 4198.

OMB control number: 7100–0326.

Frequency: On occasion and monthly.

Reporters: Bank holding companies, savings and loan holding companies, state member banks, state-licensed branches and agencies of foreign banks (other than insured branches), and corporations organized or operating under sections 25 or 25A of the Federal Reserve Act (agreement corporations and Edge corporations).

Estimated annual burden hours: Section 14 strategic planning and budgeting process: Large institutions: 20,160 hours; mid-sized institutions: 17,520 hours; small institutions: 428,080 hours. Section 20 liquidity risk reporters: 261,696 hours.

Estimated average hours per response: Section 14 strategic planning and budgeting process: Large institutions: 720 hours; mid-sized institutions: 240 hours; small institutions: 80 hours. Section 20 liquidity risk reporters: 4 hours.

Number of respondents: Section 14 strategic planning and budgeting process: Large institutions: 28; mid-sized institutions: 73; small institutions: 5,351. Section 20 liquidity risk reporters: 5,452.

General description of report: The Board's Legal Division has determined that this information collection is mandatory based on the following relevant statutory provisions.

- Section 9(6) of the Federal Reserve Act (12 U.S.C. 324) requires state member banks to make reports of condition to their supervising Reserve Bank in such form and containing such information as the Board may require.
- Section 5(c) of the Bank Holding Company Act (12 U.S.C. 1844(c)) authorizes the Board to require a BHC and any subsidiary to submit reports to keep the Board informed as to its financial condition, [and] systems for monitoring and controlling financial and operating risk.
- Section 7(c)(2) of the International Banking Act of 1978 (12 U.S.C. 3105(c)(2) requires branches and agencies of foreign banking organizations to file reports of condition with the Federal Reserve to the same extent and in the same manner as if the branch or agency were a state member bank.
- Section 25A of the Federal Reserve Act (12 U.S.C. 625) requires Edge and agreement corporations to make reports to the Board at such time and in such form as it may require.
- Section 10(b) of the Home Owners' Loan Act requires an SLHC to file reports on the operation of the SLHC and any subsidiary as the Board may require and in such form and for such periods as the Board may require.

Because the records required by the Guidance are maintained at the institution, issues of confidentiality are not expected to arise. Should the documents be obtained by the Federal Reserve System during the course of an examination, they would be exempt from disclosure under exemption 8 of FOIA, 5 U.S.C. 552(b)(8). In addition, some or all of the information may be ''commercial or financial'' information protected from disclosure under exemption 4 of FOIA, under the standards set forth in *National Parks & Conservation Ass'n* v. *Morton,* 498 F.2d 765 (D.C. Cir. 1974).

Abstract: On March 22, 2010, the Office of the Comptroller of the Currency (OCC), the Office of Thrift Supervision (OTS), the Federal Reserve, and the Federal Deposit Insurance Corporation (FDIC), and the National Credit Union Administration (NCUA) (the agencies) published a joint final notice in the **Federal Register** implementing guidance titled ''Interagency Policy Statement on Funding and Liquidity Risk Management'' (the ''Guidance''), effective May 21, 2010.[1]

The Guidance summarizes the principles of sound liquidity risk management that the agencies have issued in the past and, where appropriate, brings them into conformance with the ''Principles for Sound Liquidity Risk Management and Supervision'' issued by the Basel Committee on Banking Supervision (BCBS) in September 2008. While the BCBS liquidity principles primarily focuses on large internationally active financial institutions, the Guidance emphasizes supervisory expectations for

[1] 75 FR 13656 (March 22, 2010).

all domestic financial institutions including banks, thrifts and credit unions.

The agencies [2] have identified two sections of the Guidance that fall under the definition of an information collection. Section 14 states that institutions should consider liquidity costs, benefits, and risks in strategic planning and budgeting processes. Section 20 requires that liquidity risk reports provide aggregate information with sufficient supporting detail to enable management to assess the sensitivity of the institution to changes in market conditions, its own financial performance, and other important risk factors.

Current Actions: The Federal Reserve proposes to extend, without revision, the FR 4198 information collection.

2. Report title: Recordkeeping Provisions Associated with Guidance on Leveraged Lending.

Agency form number: FR 4203.

OMB control number: 7100–0354.

Frequency: On occasion.

Reporters: All institutions that originate or participate in leverage lending.

Estimated annual burden hours: 29,422 hours.

Estimated average hours per response: 754.4 hours.

Number of respondents: 39.

General description of report: The Board's Legal Division has determined that all financial institutions supervised by the Board and substantively engaged in leveraged lending activities are subject to the FR 4203:

- Regarding state member banks, the information collection is authorized by Section 11(a)(2) of the Federal Reserve Act, 12 U.S.C. 248(a)(2), which authorizes the Board to require any depository institution to make such reports of its assets and liabilities as the Board may determine to be necessary or desirable to enable the Board to discharge its responsibilities to monitor and control monetary and credit aggregates.
- With respect to bank holding companies, Section 5(c) of the Bank Holding Company Act, 12 U.S.C. 1844(c), authorizes the Board to require a bank holding company and any subsidiary ''to keep the Board informed as to—(i) its financial condition, [and] systems for monitoring and controlling financial and operating risks. . . .''
- With respect to savings and loan holding companies, 12 U.S.C. 1467a(b)(3), authorizes the Board to ''maintain such books and records as may be prescribed by the Board.''
- Regarding branches and agencies of foreign banking organizations, Section 7(c)(2) of the International Banking Act of 1978, 12 U.S.C. 3105(c)(2), subjects such entities to the requirements of section 11(a) of the Federal Reserve Act (12 U.S.C. 248(a)) ''to the same extent and in the same manner as if the branch or agency were a state member bank.''
- Under Section 25 of the Federal Reserve Act, 12 U.S.C. 602, member banks are required to furnish to the Board ''information concerning the condition of'' Edge and Agreement Corporations in which they invest. More generally with respect to Edge and Agreement Corporations, under Section 25A of the Federal Reserve Act, 12 U.S.C. 611a, the Federal Reserve may ''issue rules and regulations'' governing such entities ''consistent with and in furtherance of the purposes'' of that subchapter.

Because the information collection is called for in guidance and not in a statute or regulation, it is considered voluntary.

Because the information collected by the Proposed Guidance is maintained at the institutions, issues of confidentiality would not normally arise. Should the information be obtained by the Board in the course of an examination, it would be exempt from disclosure under exemption 8 of Freedom of Information Act (FOIA), 5 U.S.C. 552(b)(8). In addition, some or all of the information may be confidential commercial or financial information protected from disclosure under exemption 4 of FOIA, under the standards set forth in *National Parks & Conservation Ass'n* v. *Morton,* 498 F.2d 765 (D.C. Cir. 1974).

Abstract: The interagency guidance outlines high-level principles related to safe and sound leveraged lending activities, including underwriting considerations, assessing and documenting enterprise value, risk management expectations for credits awaiting distribution, stress testing expectations and portfolio management, and risk management expectations. This guidance applies to all financial institutions substantively engaged in leveraged lending activities supervised by the Federal Reserve, FDIC, and OCC (the Agencies).

The Agencies identified certain aspects of the proposed guidance that may constitute a collection of information. In particular, these aspects are the provisions that state a banking organization should (a) have underwriting policies for leveraged lending, including stress testing procedures for leveraged credits; (b) have risk management policies, including stress testing procedures for pipeline exposures; and (c) have policies and procedures for incorporating the results of leveraged credit and pipeline stress tests into the firm's overall stress testing framework.

Although the guidance is applicable to all institutions that originate or participate in leverage lending, due to the large exposures created by these types of loans, these credits are most likely originated primarily by larger institutions.

Current Actions: The Federal Reserve proposes to extend, without revision, the FR 4203 information collection.

Board of Governors of the Federal Reserve System, March 10, 2016.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2016–05808 Filed 3–14–16; 8:45 am]

BILLING CODE 6210–01–P

[2] As part of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the OTS was abolished and its functions and powers were transferred to the OCC, the FDIC, and the Federal Reserve.

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 30, 2016.

A. Federal Reserve Bank of Dallas (Robert L. Triplett III, Senior Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Elizabeth Ann McDonald, Austin, Texas, and Wade Compton McDonald,* Plano, Texas, to join the Compton/McDonald Family Group, a group acting in concert, to retain voting shares of Menard Bancshares, Inc., and thereby indirectly retain voting shares of Menard Bank, both in Menard, Texas.

Board of Governors of the Federal Reserve System, March 10, 2016.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2016–05777 Filed 3–14–16; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket No. CDC–2016–0029]

Proposed Revised Vaccine Information Materials for Polio and Varicella Vaccines

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: Under the National Childhood Vaccine Injury Act (NCVIA) (42 U.S.C. 300aa–26), the Centers for Disease Control and Prevention (CDC) within the Department of Health and Human Services (HHS) develops vaccine information materials that all health care providers are required to give to patients/parents prior to administration of specific vaccines. HHS/CDC seeks written comment on the proposed updated vaccine information statements for polio and varicella vaccines.

DATES: Written comments must be received on or before May 16, 2016.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2016–0029, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Written comments should be addressed to Suzanne Johnson-DeLeon, National Center for Immunization and Respiratory Diseases, Centers for Disease Control and Prevention, Mailstop A–19, 1600 Clifton Road NE., 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 *http://regulations.gov,* including any personal information provided. For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Skip Wolfe (*crw4@cdc.gov*), National Center for Immunization and Respiratory Diseases, Centers for Disease Control and Prevention, Mailstop A–19, 1600 Clifton Road NE., Atlanta, Georgia 30329.

SUPPLEMENTARY INFORMATION: The National Childhood Vaccine Injury Act of 1986 (Pub. L. 99–660), as amended by section 708 of Public Law 103–183, added section 2126 to the Public Health Service Act. Section 2126, codified at 42 U.S.C. 300aa–26, requires the Secretary of Health and Human Services to develop and disseminate vaccine information materials for distribution by all health care providers in the United States to any patient (or to the parent or legal representative in the case of a child) receiving vaccines covered under the National Vaccine Injury Compensation Program (VICP).

Development and revision of the vaccine information materials, also known as Vaccine Information Statements (VIS), have been delegated by the Secretary to the Centers for Disease Control and Prevention (CDC). Section 2126 requires that the materials be developed, or revised, after notice to the public, with a 60-day comment period, and in consultation with the Advisory Commission on Childhood Vaccines, appropriate health care provider and parent organizations, and the Food and Drug Administration. The law also requires that the information contained in the materials be based on available data and information, be presented in understandable terms, and include:

(1) A concise description of the benefits of the vaccine,

(2) A concise description of the risks associated with the vaccine,

(3) A statement of the availability of the National Vaccine Injury Compensation Program, and

(4) Such other relevant information as may be determined by the Secretary.

The vaccines initially covered under the National Vaccine Injury Compensation Program were diphtheria, tetanus, pertussis, measles, mumps, rubella and poliomyelitis vaccines. Since April 15, 1992, any health care provider in the United States who intends to administer one of these covered vaccines is required to provide copies of the relevant vaccine information materials prior to administration of any of these vaccines. Since then, the following vaccines have been added to the National Vaccine Injury Compensation Program, requiring use of vaccine information materials for them as well: hepatitis B, *Haemophilus influenzae* type b (Hib), varicella (chickenpox), pneumococcal conjugate, rotavirus, hepatitis A, meningococcal, human papillomavirus (HPV), and seasonal influenza vaccines.

Instructions for use of the vaccine information materials are found on the CDC Web site at: *http://www.cdc.gov/vaccines/hcp/vis/index.html.*

HHS/CDC is proposing updated versions of the polio and varicella vaccine information statements.

The vaccine information materials referenced in this notice are being developed in consultation with the Advisory Commission on Childhood Vaccines, the Food and Drug Administration, and parent and health care provider groups.

We invite written comment on the proposed vaccine information materials entitled ''Polio Vaccine: What You Need to Know'' and ''Varicella Vaccine: What You Need to Know.'' Copies of the proposed vaccine information materials are available at *http://www.regulations.gov* (see Docket Number CDC–2016–0029). Comments submitted will be considered in finalizing these materials. When the final materials are published in the **Federal Register**, the notice will include an effective date for their mandatory use.

Dated: March 9, 2016.

Sandra Cashman,

Executive Secretary, Centers for Disease Control and Prevention.

[FR Doc. 2016–05776 Filed 3–14–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–0736]

Agency Information Collection Activities; Proposed Collection; Comment Request; Tracking Network for PETNet, LivestockNet, and SampleNet

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, we) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. 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 our use of a tracking network to collect and share

safety information about animal food from Federal, State, and Territorial Agencies.

DATES: Submit either electronic or written comments on the collection of information by May 16, 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–N–0736 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Tracking Network for PETNet, LivestockNet, and SampleNet.'' 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: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: 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 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, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA'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.

Tracking Network for PETNet, LivestockNet, and SampleNet—OMB Control Number 0910–0680—Revision

The Center for Veterinary Medicine and the Partnership for Food Protection developed a web-based tracking network (the tracking network) to allow Federal, State, and Territorial regulatory and public health agencies to share safety information about animal food. Information is submitted to the tracking network by regulatory and public health agency employees with membership rights. The efficient exchange of safety information is necessary because it improves early identification and evaluation of a risk associated with an animal food product. We use the information to assist regulatory agencies to quickly identify and evaluate a risk and take whatever action is necessary to mitigate or eliminate exposure to the risk. The tracking network was developed under the requirements set forth under section 1002(b) of the Food and Drug Administration Amendments Act of 2007 (FDAAA) (Pub. L. 110–085). Section 1002(b) of FDAAA required FDA, in relevant part, to establish a pet food early warning alert system.

Currently we receive two types of reports via the tracking network: (1) Reports of pet food related illness and product defects associated with dog food, cat food, and food for other pets,

which are submitted via the Pet Event Tracking Network (PETNet); and (2) reports of animal food-related illness and product defects associated with animal food for livestock animals, aquaculture species, and horses, which are submitted via LivestockNet. We are revising the collection to include a third type of report that would be submitted via ''SampleNet.'' SampleNet will collect reports about animal food laboratory samples considered adulterated by State or FDA regulators. SampleNet will allow Federal, State, and Territorial regulatory and public health agencies to share laboratory data related to adulterated samples for purposes of surveillance, mitigation, work planning, and supporting the animal food standard requirements.

PETNet and LivestockNet reports share the following common data elements, the majority of which are drop down menu choices: Product details (product name, lot code, product form, and the manufacturer or distributor/packer (if known)), the species affected, number of animals exposed to the product, number of animals affected, body systems affected, product problem/defect, date of onset or the date product problem was detected, the State where the incident occurred, the origin of the information, whether there are supporting laboratory results, and contact information for the reporting member (*i.e.,* name, telephone number will be captured automatically when member logs in to the system). For the LivestockNet report, additional data elements specific to livestock animals will be captured: Product details (indication of whether the product is a medicated feed under 21 CFR 558.3(b)(8), product packaging, and intended purpose of the product), class of the animal species affected, and production loss. For PETNet reports, the only additional data field is the animal life stage. The proposed SampleNet reports will have the following data elements, many of which are drop down menu choices: Product information (product name, lot code, guarantor information, date and location of sample collection, and product description); laboratory information (sample identification number, the reason for testing, whether the food was reported to the Reportable Food Registry, who performed the analysis); and results information (analyte, test method, analytical results, whether the results contradict a label claim or guarantee, and whether action was taken as a result of the sample analysis).

Description of Respondents: Respondents to the collection of information are Federal, State, and Territorial regulatory and public health agency employees with membership access to the Animal Feed Network.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
PETNet	20	5	100	0.25 (15 minutes)	25
LivestockNet	20	5	100	0.25 (15 minutes)	25
SampleNet	20	5	100	0.25 (15 minutes)	25
Total					75

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Our estimate is based on our experience with the tracking network over the past 3 years. We estimate that we will receive an average of 5 submissions from 20 respondents for each type of report, and that it will take 15 minutes (0.25 hour) per response.

Dated: March 9, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–05757 Filed 3–14–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–0001]

Anesthetic and Analgesic Drug Products Advisory Committee and the Drug Safety and Risk Management 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). At least one portion of the meeting will be closed to the public.

Name of Committees: Anesthetic and Analgesic Drug Products Advisory Committee and the Drug Safety and Risk Management Advisory Committee.

General Function of the Committees: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on May 5, 2016, from 8 a.m. to 5 p.m.

Location: FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

Contact Person: Stephanie L. Begansky, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, email: *AADPAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: The committees will be asked to discuss new drug application (NDA) 208653, benzhydrocodone/acetaminophen oral tablets, submitted by KemPharm, Inc., with the proposed indication of short-term (up to 14 days)

management of acute pain. The product has been formulated with the intent to provide abuse-deterrent properties. Benzhydrocodone is a hydrocodone prodrug which, according to the applicant, is rapidly converted into hydrocodone by enzymes in the gastrointestinal tract. The active drugs in this fixed-dose combination are hydrocodone and acetaminophen. The applicant has submitted data to support abuse-deterrent properties for this product. The committees will be asked to discuss whether the applicant has demonstrated abuse-deterrent properties for their product that would support labeling, and whether the nasal route of abuse is relevant for combination products made up of hydrocodone and acetaminophen.

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: On May 5, 2016, from 9:15 a.m. to 5 p.m., the meeting is open to the public. 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 21, 2016. Oral presentations from the public will be scheduled between approximately 1:30 p.m. and 2:30 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 13, 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 14, 2016.

Closed Presentation of Data: On May 5, 2016, from 8 a.m. to 9:15 a.m., the meeting will be closed to permit discussion and review of trade secret and/or confidential commercial information (5 U.S.C. 552b(c)(4)). During this session, the committees will discuss the drug development program of an investigational abuse-deterrent opioid product.

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 Stephanie L. Begansky 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: March 9, 2016.

Jill Hartzler Warner,

Associate Commissioner for Special Medical Programs.

[FR Doc. 2016–05748 Filed 3–14–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–0819]

Determination That KENALOG (Triamcinolone Acetonide) Lotion and Other Drug Products Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) has determined that the drug products listed in this document were not withdrawn from sale for reasons of safety or effectiveness. This determination means that FDA will not begin procedures to withdraw approval of abbreviated new drug applications (ANDAs) that refer to these drug products, and it will allow FDA to continue to approve ANDAs that refer to the products as long as they meet relevant legal and regulatory requirements.

FOR FURTHER INFORMATION CONTACT: Stacy Kane, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6207, Silver Spring, MD 20993–0002, 301–796–8363, *Stacy.Kane@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products approved under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is generally known as the ''Orange Book.'' Under FDA regulations, a drug is removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness, or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

Under § 314.161(a) (21 CFR 314.161(a)), the Agency must determine whether a listed drug was withdrawn from sale for reasons of safety or effectiveness: (1) Before an ANDA that refers to that listed drug may be approved, (2) whenever a listed drug is voluntarily withdrawn from sale and ANDAs that refer to the listed drug have been approved, and (3) when a person petitions for such a determination under 21 CFR 10.25(a) and 10.30. Section 314.161(d) provides that if FDA determines that a listed drug was withdrawn from sale for safety or effectiveness reasons, the Agency will initiate proceedings that could result in the withdrawal of approval of the ANDAs that refer to the listed drug.

FDA has become aware that the drug products listed in the table in this document are no longer being marketed.

Application No.	Drug Name	Active Ingredient(s)	Strength(s)	Dosage Form/ Route	Applicant
NDA 011602	KENALOG	Triamcinolone Acetonide.	0.025%; 0.1%	Lotion; Topical	Delcor Asset Corp.
NDA 016059	INDOCIN	Indomethacin	25 milligrams (mg); 50 mg	Capsule; Oral	Iroko Pharmaceuticals, LLC.
NDA 017560	BACTRIM and BACTRIM PEDIATRIC.	Sulfamethoxazole; Trimethoprim.	200 mg/5 milliliters (mL); 40 mg/5 mL	Suspension; Oral	Mutual Pharmaceutical Company, Inc.
NDA 017598	SEPTRA and SEPTRA GRAPE.	Sulfamethoxazole; Trimethoprim.	200 mg/5 mL; 40 mg/5 mL	Suspension; Oral	Monarch Pharmaceuticals, Inc.
NDA 018185	INDOCIN SR	Indomethacin	75 mg	Extended-Release Capsule; Oral.	Iroko Pharmaceuticals, LLC.
NDA 018450	NITROPRESS	Sodium Nitroprusside.	50 mg/vial	Injectable; Injection.	AbbVie Inc.
NDA 019834	PLENDIL	Felodipine	2.5 mg; 5 mg; 10 mg	Extended-Release Tablet; Oral.	AstraZeneca.
NDA 021475	METHYLIN	Methylphenidate Hydrochloride.	2.5 mg; 5 mg; 10 mg	Chewable Tablet; Oral.	Mallinckrodt Pharmaceuticals.
NDA 050320	UNIPEN	Nafcillin Sodium	Equal to (EQ) 500 mg base/vial; EQ 1 g (gram) base/vial; EQ 2 g base/vial; EQ 4 g base/vial; EQ 10 g base/vial; EQ 20 g base/vial.	Injectable; Injection.	Wyeth Ayerst Pharmaceuticals.
NDA 050406	KEFLEX	Cephalexin	EQ 125 mg base/5 mL; EQ 250 mg base/5 mL; EQ 100 mg base/mL.	For Suspension; Oral.	Shionogi Inc.
ANDA 060576	MYCOLOG–II	Nystatin; Triamcinolone Acetonide.	100,000 units/g; 0.1%	Cream; Topical	Delcor Asset Corp.
ANDA 062117	CEPHALEXIN	Cephalexin	EQ 125 mg base/5 mL; EQ 250 mg base/5 mL; EQ 100 mg base/mL.	For suspension; Oral.	Facta Farmaceutici S.p.A.
ANDA 062606	MYCOLOG–II	Nystatin; Triamcinolone Acetonide.	100,000 units/g; 0.1%	Cream; Topical	Delcor Asset Corp.
ANDA 062717	UNIPEN	Nafcillin Sodium	EQ 500 mg base/vial; EQ 1 g base/vial; EQ 2 g base/vial.	Injectable; Injection.	Wyeth Ayerst Pharmaceuticals.

FDA has reviewed its records and, under § 314.161, has determined that the drug products listed in this document were not withdrawn from sale for reasons of safety or effectiveness. Accordingly, the Agency will continue to list the drug products listed in this document in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' identifies, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness.

Approved ANDAs that refer to the NDAs and ANDAs listed in this document are unaffected by the discontinued marketing of the products subject to those NDAs and ANDAs. Additional ANDAs that refer to these products may also be approved by the Agency if they comply with relevant legal and regulatory requirements. If FDA determines that labeling for these drug products should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: March 9, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–05717 Filed 3–14–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–D–1814]

Bacterial Risk Control Strategies for Blood Collection Establishments and Transfusion Services To Enhance the Safety and Availability of Platelets for Transfusion; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft document entitled ''Bacterial Risk Control Strategies for Blood Collection Establishments and Transfusion Services to Enhance the Safety and Availability of Platelets for Transfusion; Draft Guidance for Industry.'' The draft guidance document provides blood collection establishments and transfusion services with recommendations to control the risk of bacterial contamination of room temperature stored platelets intended for transfusion through the implementation of pathogen reduction technology (PRT) or bacterial testing. The draft guidance also provides recommendations for the use of secondary testing of platelets as the basis to extend the dating period of platelets, when appropriately labeled bacterial detection devices and storage containers are used. The draft guidance replaces the draft guidance entitled ''Bacterial Detection Testing by Blood Collection Establishments and Transfusion Services to Enhance the Safety and Availability of Platelets for Transfusion,'' dated December 2014. The draft guidance, when finalized, is intended to supersede the recommendation in section VII.A.2, in regard to bacterial contamination testing in the document entitled ''Guidance for Industry and FDA Review Staff: Collection of Platelets by Automated Methods'' dated December 2007.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by June 13, 2016. Submit either electronic or written comments on the collection of information by May 16, 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–2014–D–1814 for ''Bacterial Risk Control Strategies for Blood Collection Establishments and Transfusion Services to Enhance the Safety and Availability of Platelets for Transfusion; Draft 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 draft 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 draft guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 240–402–8010. See **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: *Information Collection Requirements:* FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

Guidance Document: 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 draft document entitled ''Bacterial Risk Control Strategies for Blood Collection Establishments and Transfusion Services to Enhance the Safety and Availability of Platelets for Transfusion; Draft Guidance for Industry.'' Platelets are associated with a higher risk of sepsis and are related to more fatalities than any other transfusable blood component. The risk of bacterial contamination of platelets is a leading risk of infection from blood transfusion. This risk has persisted despite numerous interventions including the introduction, in the last decade, of analytically sensitive culture-based bacterial detection methods, which are widely used to test platelets prior to their release from blood collection establishments to transfusion services.

The draft guidance provides blood collection establishments and transfusion services with recommendations to control the risk of bacterial contamination of room temperature stored platelets intended for transfusion through the implementation of PRT or bacterial testing. PRT is performed shortly after platelet collection by blood collection establishments. Bacterial testing encompasses primary testing of platelets by blood collection establishments and subsequent secondary testing prior to transfusion primarily by transfusion services. The draft guidance also provides recommendations for the use of secondary testing of platelets as the basis to extend the dating period of platelets, when appropriately labeled bacterial detection devices and storage containers are used. Additionally, the draft guidance provides recommendations to licensed blood establishments for submitting biologics license application supplements to

include bacterial testing of platelet components. The guidance informs transfusion services that are currently exempt from registration and blood product listing that if they choose to perform secondary testing of platelets to extend the dating period, they must register with FDA and list the blood products they manufacture.

The draft guidance applies to all platelet products, including platelets manufactured from Whole Blood (Whole Blood Derived (WBD) platelets), platelets collected by automated methods from a single donor (apheresis platelets), pooled platelets, and platelets stored in additive solutions.

The 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 bacterial risk control strategies for blood collection establishments and transfusion services to enhance the safety and availability of platelets for transfusion. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

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 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, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA'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.

Title: Bacterial Risk Control Strategies for Blood Collection Establishments and Transfusion Services to Enhance the Safety and Availability of Platelets for Transfusion.

Description: We have identified the following recommendations in the draft guidance document as collections of information. In section VI, the draft guidance recommends that blood collection establishments have in place measures to promptly alert the transfusion services in the event that a distributed platelet product is subsequently identified as positive for bacterial contamination. In section X.A.2, the draft guidance recommends that following secondary testing, labeling on the container label or a tie-tag, should relay the following information: (1) Type of bacterial detection test performed (rapid or culture) and (2) the date and time the bacterial detection test was performed.

Description of Respondents: The third-party disclosure recommendations described in the draft guidance affect blood collection establishments and transfusion services that collect and manufacture platelet products for transfusion, including WBD platelets, apheresis platelets, pooled platelets, and platelets stored in additive solutions.

Burden Estimate: The Agency believes the information collection provision for blood collection establishments in section VI does not create a new burden for respondents and is part of usual and customary business practice. Blood collection establishments currently have in place standard operating procedures for notifying consignees (transfusion services) if a distributed platelet product has subsequently tested positive for bacterial contamination.

In section X.A.2, the draft guidance recommends that following secondary testing, establishments should maintain a labeling process that relays certain information and is integral to the container (*e.g.,* on the container label or an attached tie-tag) and label accordingly. FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

Activity	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
Section X.A.2: Following secondary testing, maintain a labeling process that relays certain information and is integral to the container (*e.g.*, on the container label or an attached tie-tag) and label accordingly.	2480	403	1,000,000	.05 (3 minutes)	50,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Table 1 provides an estimate of the annual third-party disclosure burden for the information to be submitted in accordance with the draft guidance. Based on FDA data and information submitted by industry, FDA believes that there are approximately 2 million platelet transfusions per year. The recommendation for labeling following secondary testing applies to approximately 4,960 transfusion services in the Unites States. We estimate that about 50 percent of all platelets will be pathogen-reduced and 50 percent will be cultured. Therefore, to estimate the annual third-party disclosure burden in table 1, we assume that approximately one-half of the transfusion services will label one-half of the total platelets intended for transfusion in the United States following secondary testing. The average burden disclosure for transfusion services to implement the recommendation in table 1 is based on FDA's experience and industry information.

This draft guidance also refers to previously approved collections of information found in FDA regulations. The collections of information in 21 CFR 601.12 and 610.60 have been approved under OMB control number

0910–0338; the collections of information in 21 CFR 606.65, 606.100, 606.120, 606.121, 606.122, and have been approved under OMB control number 0910–0116; and the collections of information in 21 CFR part 607 have been approved under OMB control number 0910–0052.

To ensure that comments on information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB (see **ADDRESSES**). All comments should be identified with the title of the information collection.

In compliance with the PRA (44 U.S.C. 3407(d)), the Agency has submitted the information collection provisions of this document to OMB for review. These requirements will not be effective until FDA obtains OMB approval. FDA will publish a notice concerning OMB approval of these requirements in the **Federal Register**.

III. Electronic Access

Persons with access to the Internet may obtain the draft guidance at either *http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov.*

Dated: March 9, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–05718 Filed 3–14–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–3815]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Electronic Submission of Medical Device Registration and Listing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by April 14, 2016.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0625. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Electronic Submission of Medical Device Registration and Listing—21 CFR Part 807, Subparts A Through D; OMB Control Number 0910–0625—Extension

Under section 510 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360) and part 807, subparts A through D (21 CFR part 807, subparts A through D), medical device establishment owners and operators are required to electronically submit establishment registration and device listing information.

Complete and accurate registration and listing information is necessary to accomplish a number of statutory and regulatory objectives, such as: (1) Identification of establishments producing marketed medical devices, (2) identification of establishments producing a specific device when that device is in short supply or is needed for national emergency, (3) facilitation of recalls for devices marketed by owners and operators of device establishments, (4) identification and cataloguing of marketed devices, (5) administering postmarketing surveillance programs for devices, (6) identification of devices marketed in violation of the law, (7) identification and control of devices imported into the country from foreign establishments, (8) and scheduling and planning inspections of registered establishments under section 704 of the FD&C Act (21 U.S.C. 374).

Respondents to this information collection are owners or operators of establishments that engage in the manufacturing, preparation, propagation, compounding, or processing of a device or devices, who must register their establishments and submit listing information for each of their devices in commercial distribution. Notwithstanding certain exceptions, foreign device establishments that manufacture, prepare, propagate, compound, or process a device that is imported or offered for import into the United States must also comply with the registration and listing requirements. The number of respondents is based on data from the FDA Unified Registration and Listing System.

Burden estimates are based on recent experience with the existing medical device registration and listing program, electronic system operating experience, and the economic analysis for the final rule entitled ''Implementation of Device Registration and Listing Requirements Enacted in the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, the Medical Device User Fee and Modernization Act of 2002, and Title II of the Food and Drug Administration Amendments Act of 2007.''

In the **Federal Register** of October 27, 2015 (80 FR 65779), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR Section	FDA Form No.	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
807.20(a)(5) [2]—Submittal of manufacturer information by initial importers.	3673	8,594	1	8,594	1.75	15,040
807.20(a)(5) [3]—Submittal of manufacturer information by initial importers.	3673	8,594	3	25,782	.1 ..... (6 minutes)	2,578

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]—Continued

21 CFR Section	FDA Form No.	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
807.21(a) [3]—Creation of electronic system account.	3673	3,559	1	3,559	.5 (30 minutes)	1,780
807.21(b) [2]—Annual request for waiver from electronic registration and listing.		14	1	14	1	14
807.21(b) [3]—Initial request for waiver from electronic registration and listing.		4	1	4	1	4
807.22(a) [3]—Initial registration and listing	3673	3,539	1	3,539	.5 (30 minutes)	1,770
807.22(b)(1) [3]—Annual registration	3673	20,355	1	20,355	.75 (45 minutes)	15,266
807.22(b)(2) [3]—Other updates of registration.	3673	4,176	1	4,176	.5 (30 minutes)	2,088
807.22(b)(3) [3]—Annual update of listing information.	3673	19,875	1	19,875	1	19,875
807.26(e) [3]—Labeling and advertisement submitted at FDA request.		71	1	71	1	71
807.34(a) [2]—Initial registration and listing when electronic filing waiver granted.		14	1	14	1	14
807.34(a) [3]—Annual registration and listing when electronic filing waiver granted.		4	1	4	1	4
807.40(b)(2) [3]—Annual update of U.S. agent information.	3673	1,615	1	1,615	.5 (30 minutes)	808
807.40(b)(3) [3]—U.S. agent responses to FDA requests for information.	3673	1,535	1	1,535	.25 (15 minutes)	384
807.41(a) [3]—Identification of initial importers by foreign establishments.	3673	10,329	1	10,329	.5 (30 minutes)	5,165
807.41(b) [3]—Identification of other parties that facilitate import by foreign establishments.	3673	10,329	1	10,329	.5 (30 minutes)	5,165
Total one-time burden						15,068
Total recurring burden						54,958

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] One-time burden.
[3] Recurring burden.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR Section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
807.25(d) [2]—List of officers, directors and partners	23,806	1	23,806	.25 (30 minutes)	5,952
807.26 [2]—Labeling and advertisements available for review.	11,746	4	46,984	.5 (30 minutes)	23,492
Total					29,444

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Recurring burden.

Dated: March 9, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–05744 Filed 3–14–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0520]

Agency Information Collection Activities; Proposed Collection; Comment Request; Substances Prohibited From Use in Animal Food or Feed; Animal Proteins Prohibited in Ruminant Feed

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. 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 extending Office of Management and Budget (OMB) approval on the existing recordkeeping requirements for this information collection, regarding animal proteins prohibited in ruminant feed.

DATES: Submit either electronic or written comments on the collection of information by May 16, 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–2013–N–0520 for ''Substances Prohibited from Use in Animal Food or Feed; Animal Proteins Prohibited in Ruminant Feed.'' 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: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from 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 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, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA'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.

Substances Prohibited From Use in Animal Food or Feed; Animal Proteins Prohibited in Ruminant Feed—21 CFR 589.2000(e)(1)(iv) OMB Control Number 0910–0339—Extension

This information collection was established because epidemiological evidence gathered in the United Kingdom suggested that bovine spongiform encephalopathy (BSE), a progressively degenerative central nervous system disease, is spread to ruminant animals by feeding protein derived from ruminants infected with BSE. This regulation places general requirements on persons that manufacture, blend, process, and distribute products that contain, or may contain, protein derived from mammalian tissue, and feeds made from such products.

Specifically, this regulation requires renderers, feed manufacturers, and others involved in feed and feed ingredient manufacturing and distribution to maintain written procedures specifying the cleanout procedures or other means, and specifying the procedures for separating products that contain or may contain protein derived from mammalian tissue from all other protein products from the time of receipt until the time of shipment. These written procedures are intended to help the firm formalize their processes, and then to help inspection personnel confirm that the firm is operating in compliance with the regulation. Inspection personnel will evaluate the written procedure and confirm it is being followed when they are conducting an inspection.

These written procedures must be maintained as long as the facility is operating in a manner that necessitates the record, and if the facility makes changes to an applicable procedure or process the record must be updated. Written procedures required by this section shall be made available for inspection and copying by FDA.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR section; activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
589.2000(e)(1)(iv); written procedures	320	1	320	14	4480

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

We base our estimate of the number of recordkeepers on inspectional data, which reflect a decline in the number of recordkeepers. We attribute this decline to a reduction in the number of firms handling animal protein for use in animal feed.

Dated: March 9, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–05716 Filed 3–14–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–0781]

Final Results of Study of Workload Volume and Full Costs Associated With Review of Biosimilar Biological Product Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; request for comments.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the final results of a study of the workload volume and full costs associated with the process for the review of biosimilar biological product applications (final report). This study was conducted by an independent consulting firm, and it fulfills FDA's statutory requirement under the first authorization of the Biosimilar User Fee Act of 2012 (BsUFA), which enables FDA to collect user fees for the review of biosimilar biological applications for fiscal years 2013 to 2017. This notice solicits comments on the final report.

DATES: The report will be released on or before March 17, 2016. Submit either electronic or written comments on the final report by April 14, 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–N–0781 for ''Final Results of the Study of Workload Volume and Full Costs Associated With Review of Biosimilar Biological Product Applications.'' 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: Mark Ascione, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 1150, Silver Spring, MD 20993–0002, 301–796–7652, FAX: 301–847–8443.

SUPPLEMENTARY INFORMATION:

I. Background

The Patient Protection and Affordable Care Act of 2010 (Pub. L. 111–148) amended the Public Health Service Act to create an abbreviated licensure pathway for biological products that are demonstrated to be ''biosimilar'' to or ''interchangeable'' with an FDA-licensed biological product. The Federal Food, Drug, and Cosmetic Act (the FD&C Act), as amended by BsUFA (Title IV of the Food and Drug Administration Safety and Innovation Act, Pub. L. 112–114), authorizes FDA to assess and collect fees for biosimilar biological products from October 2012 through September 2017. FDA uses these fees to expedite the review process for biosimilar biological products. Biosimilar biological products represent an important public health benefit, with the potential to offer life-saving or life-altering benefits at reduced cost to the patient. BsUFA facilitates the development of safe and effective biosimilar products for the American public.

As part of BsUFA, FDA is required to contract with an independent accounting or consulting firm to study the workload volume and full costs associated with the process for the review of biosimilar biological product applications. This notice solicits comments on the final report. The final report is described in section 744I(d) of the FD&C Act (21 U.S.C. 379j–53(d)) (*http://uscode.house.gov/view.xhtml?req=granuleid:U.S.C.-prelim-title21-section379j-53&num=0&edition=prelim*), as amended by the Food and Drug Administration Safety and Innovation Act enacted in 2012 (*http://www.gpo.gov/fdsys/pkg/PLAW-112publ144/pdf/PLAW-112publ144.pdf*). (FDA has verified the Web site addresses, as of the date this document publishes in the **Federal Register**, but Web sites are subject to change over time.)

II. Electronic Access

The final report can be accessed at *http://www.fda.gov/ForIndustry/UserFees/BiosimilarUserFeeActBsUFA/ucm459682.htm.*

Dated: March 9, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–05720 Filed 3–14–16; 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

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Health Resources and Services Administration (HRSA) has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period.

DATES: Comments on this ICR should be received no later than April 14, 2016.

ADDRESSES: Submit your comments, including the Information Collection Request Title, to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to 202–395–5806.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email the HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 443–1984.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: Maternal and Child Health Bureau Performance Measures for Discretionary Grants

OMB No.: 0915–0298—Revision

Abstract: The Maternal and Child Health Bureau's (MCHB) Discretionary Grant Information System (DGIS) electronically captures performance measure, program, financial, and abstract data, and products and publications about these discretionary grants from the grantees. The data collected are used by MCHB project officers to monitor and assess grantee performance as well as assist in monitoring and evaluating MCHB's programs.

Need and Proposed Use of the Information: The Health Resources and Services Administration (HRSA) proposes to continue using reporting requirements for grant programs administered by MCHB, including national performance measures as previously approved by OMB, and in accordance with the ''Government Performance and Results Act (GPRA) of 1993'' (Pub. L. 103–62). This Act requires the establishment of measurable goals for Federal Programs that can be reported as part of the budgetary process, thus linking funding decisions with performance. Performance measures for MCHB discretionary grants were initially approved in January 2003. Approval from OMB is being sought to continue the use of performance measures for these grants. The revised performance measures are categorized by population domains (Adolescent Health, Child Health, Children with Special Health Care Needs, Lifecourse/Crosscutting, Maternal/Women Health, and Perinatal/Infant Health) consistent with Title V,

with the addition of a Capacity Building domain, specific to DGIS. There are also program-specific measures included for a subset of discretionary grant programs including the Healthy Start program, Emergency Medical Services for Children program, and programs within the Division of MCH Workforce Development. Grant programs will be assigned measures in the domains that are appropriate for their activities. Comments were received related to structure, content, and volume of performance measures during the 60-day public comment period and those comments were taken into consideration in the final revision of the DGIS performance measures and overall DGIS data collection.

MCHB's purpose in revising the performance measures is to better measure progress toward program goals. These program goals include alignment with and support of the Title V Block Grant, specifically population domains and National Performance Measures, where reasonable. Further, the revised measures will more accurately capture the scope of services provided through this grant funding. The overall number of performance measures has been reduced from prior DGIS data collection, and the average number of performance measures each grantee will be required to report is reduced as well. Further, the structure of the data collection has been revised to better measure the various models of programs and the services each funded program provides. This revision will allow a more accurate and detailed picture of the full scope of services provided through grant programs administered by MCHB. The data collected are also used by MCHB project officers to monitor and assess grantee performance as well as assist in monitoring and evaluating MCHB's programs.

Likely Respondents: Discretionary grant programs administered by the Maternal and Child Health Bureau.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Grant Report	600	1	600	36	21,600
Total	600	1	600	36	21,600

Jackie Painter,

Director, Division of the Executive Secretariat.

[FR Doc. 2016–05730 Filed 3–14–16; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: HHS–OS–0945–0004 60D]

Agency Information Collection Activities; Proposed Collection; Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). The ICR is for extending the use of the approved information collection assigned OMB control number 0945–0004, which expires on May 31, 2016. Prior to submitting the ICR to OMB, OS seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on the ICR must be received on or before May 16, 2016.

ADDRESSES: Submit your comments to *Information.CollectionClearance@hhs.gov* or by calling (202) 690–6162.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the document identifier HHS–OS–60D for reference.

Information Collection Request Title: Health Insurance Reform Security Standards—Final Rule.

The final rule was published in the **Federal Register** (68 FR 8334) as CMS–0049–F published on February 20, 2003. On May 22, 2013, CMS 0938–0949 was transferred to OCR 0945–0004.

Abstract: Office of Civil Rights, OCR requests approval to extend this collection without change while OMB reviews our request to incorporate the burdens of compliance with the Security Rule into another existing ICR (OMB #0945–0003, for the HIPAA Privacy Rule and Supporting Regulations), which is being revised to better reflect our experience in administering and enforcing the HIPAA Rules. This ICR extends the existing approved information collection for applicable compliance activities associated with the HIPAA Security Rule. When the revised ICR with OMB #0945–0003 is approved, we will request that this ICR (OMB# 0945–0004) be discontinued.

Likely Respondents: HIPAA covered entities and their business associates.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Response type	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
45 CFR 164.306 Justification	75,000	3	15/60	56,250
45 CFR 164.308 Security incident report	50	1	8	400
45 CFR 164.308 Contingency plan	60,000	1	8	480,000
45 CFR 164.310 Physical safeguard policies and procedures	500	1	10/60	83
45 CFR 164.314 Problem reports	10	1	1	10
Total				536,743

OS specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Darius Taylor,

Information Collection Clearance Officer.

[FR Doc. 2016–05806 Filed 3–14–16; 8:45 am]

BILLING CODE 4153–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

[OIG–1206–N]

Statement of Organization, Functions, and Delegations of Authority

AGENCY: Office of Inspector General (OIG), HHS.

ACTION: Notice.

SUMMARY: This notice replaces all language in Part A (Office of the Secretary) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (HHS), Office of Inspector General (OIG) (70 FR 20147, as amended April 18, 2005; as last amended at 73 FR 7568, dated February 8, 2008).

The statement of organization, functions, and delegations of authority conforms to and carries out the statutory requirements for operating OIG. The organizational changes reflected in this notice are primarily to realign the functions within OIG to better reflect the current work environment and priorities, and to more clearly delineate responsibilities for the various activities within OIG's offices. In addition, this notice removes all of Chapter A and establishes Chapter Q.

OIG was established by law as an independent and objective oversight unit of the Department to carry out the mission of preventing fraud and abuse and promoting economy, efficiency and effectiveness of HHS programs and operations. In furtherance of this mission, the organization:

A. Conducts and supervises audits, investigations, evaluations and inspections relating to HHS programs and operations.

B. Identifies systemic weaknesses giving rise to opportunities for fraud and abuse in HHS programs and operations and makes recommendations to prevent their recurrence.

C. Leads and coordinates activities to prevent and detect fraud and abuse in HHS programs and operations.

D. Detects wrongdoers and abusers of HHS programs and beneficiaries so appropriate remedies may be brought to bear, including imposing administrative sanctions against providers of health care under Medicare and Medicaid who commit certain prohibited acts.

E. Keeps the Secretary and Congress fully and currently informed about problems and deficiencies in the administration of HHS programs and operations and about the need for and progress of corrective action.

In addition, OIG works with the Department of Justice (DOJ), on behalf of the Secretary, to operate the Health Care Fraud and Abuse Control Program. In accordance with authority enacted in its annual appropriations, OIG also provides protection services to the Secretary and conducts criminal investigations of violations of Federal child support provisions.

In support of its mission, OIG carries out and maintains an internal quality assurance system and a peer review system with other Offices of Inspectors General, including periodic quality assessment studies and quality control reviews, to provide reasonable assurance that applicable laws, regulations, policies, procedures, standards, and other requirements are followed, are effective, and are functioning as intended in OIG operations.

Section Q, Office of Inspector General—Organization

There is at the head of OIG a statutory Inspector General, appointed by the President and confirmed by the Senate. This office consists of six organizational units:

A. Immediate Office of the Inspector General (QA)
B. Office of Management and Policy (QC)
C. Office of Evaluation and Inspections (QE)
D. Office of Counsel to the Inspector General (QG)
E. Office of Audit Services (QH)
F. Office of Investigations (QJ)

Section Q, Office of Inspector General—Functions

The component sections that follow describe the specific functions of the organization.

Section Q.00, Immediate Office of the Inspector General—Mission

The Immediate Office of the Inspector General is directly responsible for meeting the statutory mission of OIG as a whole and for promoting effective OIG internal quality assurance systems, including quality assessment studies and quality control reviews of OIG processes and products. The office also plans, conducts and participates in a variety of interagency cooperative projects and undertakings relating to fraud and abuse with the DOJ, the Centers for Medicare & Medicaid Services (CMS) and other governmental agencies, and is responsible for the reporting and legislative and regulatory review functions required by the Inspector General Act.

Section QA.10, Immediate Office of the Inspector General—Organization

The Immediate Office is comprised of the Inspector General, the Principal Deputy Inspector General, Chief of Staff,

several technical advisors, including the Chief Medical Officer, and staff.

Section QA.20, Immediate Office of the Inspector General—Functions

The Inspector General is appointed by the President, with the advice and consent of the Senate, and reports to and is under the general supervision of the Secretary or, to the extent such authority is delegated, the Deputy Secretary, but does not report to and is not subject to supervision by any other officer in the Department. In keeping with the independence conferred by the Inspector General Act, the Inspector General assumes and exercises, through line management, all functional authorities related to the administration and management of OIG and all mission-related authorities stated or implied in the law or delegated directly from the Secretary.

The Inspector General provides executive leadership to the organization and exercises general supervision over the personnel and functions of its major components. The Inspector General determines the budget needs of OIG, sets OIG policies and priorities, oversees OIG operations and provides reports to the Secretary and Congress. By statute, the Inspector General exercises general personnel authority, *e.g.,* selection, promotion, and assignment of employees, including members of the Senior Executive Service. The Inspector General delegates related authorities as appropriate. The Principal Deputy Inspector General assists the Inspector General in the management of OIG, and during the absence of the Inspector General, acts as the Inspector General. The Principal Deputy Inspector General supervises the Chief Counsel to the Inspector General, the Deputy Inspectors General, who head the major OIG components, as well as the Chief of Staff.

Section QC.00, Office of Management and Policy—Mission

The Office of Management and Policy (OMP) provides management, guidance, and resources in support of OIG.

Section QC.10, Office of Management and Policy—Organization

The office is directed by the Deputy Inspector General for Management and Policy, who, aided by Assistant Inspectors General, assures that OIG has the financial and administrative resources necessary to fulfill its mission. This office carries out its responsibilities through headquarters functions.

Section QC.20, Office of Management and Policy—Functions

The staffs within OMP are responsible for formulating and executing the budget, developing policy, managing information technology, human resources, executive resources, OIG procurement activities and OIG physical space. OMP also executes and maintains an internal quality assurance system, which includes quality control reviews of OMP processes and products to ensure that OIG policies and procedures are followed and function as intended. Additionally, the office leads OIG's congressional and regulatory functions; media and public communications; coordinates strategic planning and mandated Inspector General reporting, including Work Plans and Semi-Annual Reports to Congress; and responds to all requests made under the Freedom of Information Act.

Finally, the office leads and coordinates OIG's data analysis management and organizational performance management activities.

Section QE.00, Office of Evaluation and Inspections—Mission

The Office of Evaluation and Inspections (OEI) is responsible for conducting in-depth evaluations of HHS programs, operations, and processes to identify vulnerabilities and recommend corrective action; to prevent and detect fraud and abuse; and to promote efficiency and effectiveness in HHS programs and operations. OEI conducts its work in accordance with the Quality Standards for Inspection and Evaluation issued by the Council of the Inspectors General on Integrity and Efficiency.

Section QE.10, Office of Evaluation and Inspections—Organization

This office is directed by the Deputy Inspector General for OEI who, aided by Assistant Inspectors General, is responsible for carrying out OIG's responsibilities to evaluate the effectiveness and efficiency of HHS programs and operations. The office is comprised of headquarters and regional functions.

Section QE.20, Office of Evaluation and Inspections—Functions

OEI is responsible for conducting evaluations of HHS programs; conducting data and trend analysis; and recommending changes in programs, procedures, policies, regulations, and legislation. The Office develops evaluation policies, procedures, techniques and guidelines to be followed by all OEI staff in conducting evaluations. The office maintains an internal quality assurance program. OEI also oversees the activities of State Medicaid Fraud Control Units (MFCUs) to ensure the MFCUs' compliance with Federal grant regulations, administrative rules, and performance standards for the purpose of certifying or recertifying the MFCUs annually.

The office also maintains automated data and management information systems used by all OEI employees, a quality assurance/peer review program and policy and procedure manuals.

Section QG.00, Office of Counsel to the Inspector General—Mission

In accordance with section 3(g) of the Inspector General Act (5 U.S.C. App. § 3(g)), the Office of Counsel to the Inspector General (OCIG) provides all legal advice to OIG and represents OIG in administrative litigation. OCIG proposes and litigates civil money penalty (CMP) and program exclusion cases within the jurisdiction of OIG. It coordinates False Claims Act matters involving HHS programs and resolves voluntary disclosure cases. OCIG develops guidance to assist providers in establishing compliance programs; monitors ongoing compliance of providers subject to integrity agreements; and promotes industry awareness through advisory opinions, fraud alerts, and special advisory bulletins.

Section QG.10, Office of Counsel to the Inspector General—Organization

The office is directed by the Chief Counsel to the Inspector General and aided by Assistant Inspectors General. The office carries out its responsibilities through headquarters functions.

Section QG.20, Office of Counsel to the Inspector General—Functions

The office provides legal advice to OIG on issues that arise in the exercise of OIG's responsibilities under the Inspector General Act of 1978. Such issues include the scope and exercise of the Inspector General's authorities and responsibilities; investigative techniques and procedures (including criminal procedure); the sufficiency and impact of legislative proposals affecting OIG and HHS; and the conduct and resolution of investigations, audits and inspections. The office evaluates the legal sufficiency of OIG findings and recommendations and develops formal legal opinions to support these findings and recommendations. The office provides legal advice on OIG internal administration and operations, including appropriations, delegations of authority, OIG regulations, personnel matters, the disclosure of information under the Freedom of Information Act,

and the safeguarding of information under the Privacy Act and serves as OIG's Deputy Ethics Officer. The office is responsible for the clearance and enforcement of subpoenas issued by OIG.

The office represents OIG in administrative litigation and related appeals. This includes representing OIG in personnel and Equal Employment Opportunity matters; and coordinating OIG's representation in Federal tort actions involving OIG employees.

The office also determines whether to propose or implement administrative sanctions, including CMPs and assessments within the jurisdiction of OIG. The office litigates and resolves all appealed or contested exclusions from participation in Federal health care programs under the Social Security Act. In coordination with DOJ, the office represents HHS in all False Claims Act cases, including qui tam cases, and is responsible for final approval of civil False Claims Act settlements for the Department, including the resolution of the program exclusion authorities that have been delegated to OIG.

The office, in conjunction with the Office of Investigations, coordinates resolution of all voluntary and mandatory disclosure under the OIG Provider Self-Disclosure Protocol, the contractor self-disclosure requirement and otherwise. The office develops and monitors corporate and individual integrity agreements adopted in connection with settlement agreements, conducts on-site reviews, and develops audit and investigative review standards for monitoring such integrity agreements in cooperation with other OIG components. The office resolves breaches of integrity agreements through the development of corrective action plans and through the imposition of sanctions.

Finally, the office issues advisory opinions to the health care industry and members of the public on whether a current or proposed activity would constitute grounds for the imposition of a sanction under the anti-kickback statute, the CMP law or the program exclusion authorities. The office develops procedures for submitting and processing requests for advisory opinions and for determining the fees that will be imposed. The office solicits and responds to proposals for new regulatory safe harbors to the anti-kickback statute, modifications to existing safe harbors, and new fraud alerts. The office consults with DOJ on proposed advisory opinions and safe harbors before issuance or publication. The office provides legal advice to the components of OIG, other HHS offices and DOJ concerning matters involving the interpretation of the anti-kickback statute and other legal authorities, and assists those components or offices in analyzing the applicability of the anti-kickback statute to particular practices or activities under review.

Section QH.00, Office of Audit Services—Mission

The Office of Audit Services (OAS) is responsible for protecting the integrity of HHS operations and programs by conducting audits that identify and report ways to improve the economy, efficiency, and effectiveness of operations and services to beneficiaries of HHS programs, and help reduce fraud, waste, abuse, and mismanagement. OAS conducts audits and oversees audit work performed by others. It conducts its work in accordance with Government Auditing Standards and follows applicable legal, regulatory, and administrative requirements.

Section QH.10, Office of Audit Services—Organization

The office is directed by the Deputy Inspector General for Audit Services who, aided by Assistant Inspectors General, performs the functions designated in Section 3(d)(1)A of the Inspector General Act) for the position of Assistant Inspector General for Auditing. The office is comprised of headquarters and regional functions and also includes a designated Whistleblower Protection Ombudsman, and the functions thereof, as required by law (section 3(d)(1)C of the Inspector General Act).

Section QH.20, Office of Audit Services—Functions

OAS establishes audit priorities; performs audits; oversees the progress of audits; coordinates on bodies of work with stakeholders; recommends changes in program policies, regulations, and legislation to prevent fraud, waste, and abuse and improve programs and operations; and reports on the impact of audit work. The office develops audit policies, procedures, techniques, and guidelines to be followed by all OAS staff in conducting audits. OAS maintains an internal quality assurance program, conducts peer reviews of other OIGs and maintains automated data and management information systems used by all OAS employees. The office also provides oversight for audits of state and local governments, universities, and nonprofit organizations conducted by non-Federal auditors. The office provides education to agency employees about prohibitions on retaliation, and the rights and remedies against retaliation, for protected disclosures, as required of the Whistleblower Protection Ombudsman.

Section QJ.00, Office of Investigations—Mission

The Office of Investigations (OI) is granted full statutory law enforcement authority under the Homeland Security Act of 2003 (Pub. L. 107–296). OI is responsible for protecting the integrity of the programs administered and/or funded by HHS by conducting criminal, civil and administrative investigations of fraud and misconduct related to HHS programs, operations and employees. The office serves as OIG's liaison to the DOJ on all matters relating to investigations of HHS programs and personnel, and reports to the Attorney General when there are reasonable grounds to believe Federal criminal law has been violated. OI serves as a liaison to the CMS, State licensing boards, and other outside organizations and entities with regard to exclusion, compliance, and enforcement activities.

Section QJ.10, Office of Investigations—Organization

The office is directed by the Deputy Inspector General for Investigations, aided by Assistant Inspectors General, and performs the functions designated in the law (section 3(d)(1)B of the Inspector General Act) for the position of Assistant Inspector General for Investigations. The office is comprised of headquarters and regional functions.

Section QJ.20, Office of Investigations—Functions

OI conducts criminal, civil, and administrative investigations of allegations of fraud, waste, abuse, mismanagement, and violations of standards of conduct within the jurisdiction of OIG. OI establishes investigative priorities, evaluates the progress of investigations, and reports findings to the Inspector General. The office develops and implements investigative techniques, programs, guidelines, and policies; manages OI's quality assurance/peer review program and conducts peer reviews of other OIGs. OI also carries out and maintains an internal quality assurance system. The system includes quality assessment studies and quality control reviews of OI processes and products to ensure that policies and procedures are followed effectively, and are functioning as intended. The office effectuates mandatory and permissive exclusions from participation in Federal health care programs under the Social Security Act; decides on all requests for reinstatement

from, or waiver of, exclusions; and participates in developing standards governing the imposition of these exclusion authorities. The office also oversees OIG's suspension and debarment referral program. OI implements policies and procedures and plans, develops, implements and evaluates all levels of training for OI employees. The staff provides for the personal protection of the Secretary and other Department officials, as needed, and all emergency operations preparedness and response. OI coordinates the adoption of advanced digital forensic acquisition and examination and information security technologies to assist in the investigation, prevention and detection of fraud and abuse; maintains an automated data and management information system used by all OI employees; provides technical expertise on computer applications for investigations; and coordinates and approves investigative computer matches with other agencies.

In addition, the office operates a toll-free hotline to permit individuals to report suspected fraud, waste and abuse within HHS programs.

Dated: March 9, 2016.

Daniel R. Levinson,

Inspector General.

[FR Doc. 2016–05714 Filed 3–14–16; 8:45 am]

BILLING CODE 4152–01–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 Cell Biology Topics.

Date: March 31, 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: Elena Smirnova, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5187, MSC 7840, Bethesda, MD 20892, 301–435–1236, *smirnove@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel PAR Panel: Translational Research in Pediatric and Obstetric Pharmacology and Therapeutics.

Date: April 6, 2016.

Time: 11:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Elaine Sierra-Rivera, Ph.D., Scientific Review Officer, EMNR IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6182 MSC 7892, Bethesda, MD 20892, 301– 435–2514, *riverase@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Child Psychopathology, Emotion, Learning and Memory.

Date: April 6, 2016.

Time: 1:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Biao Tian, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3089B, MSC 7848, Bethesda, MD 20892, (301) 402–4411, *tianbi@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Endocrinology and Reproduction.

Date: April 6, 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: Michael Knecht, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6176, MSC 7892, Bethesda, MD 20892, (301) 435–1046, *knechtm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Urologic and Urogynecologic Small Business Applications.

Date: April 7–8, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Ryan G. Morris, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4205, MSC 7814, Bethesda, MD 20892, 301–435–1501, *morrisr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, PAR15–360 Mycobacterial Induced Immunity in HIV-Infected and Uninfected Individuals.

Date: April 7, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Jingsheng Tuo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5207, Bethesda, MD 20892, 301–451–8754, *tuoj@nei.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Biological Chemistry and Macromolecular Biophysics.

Date: April 7, 2016.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Michael Eissenstat, Ph.D., Scientific Review Officer, BCMB IRG, Center for Scientific Review,National Institutes of Health, 6701 Rockledge Drive, Room 4166, Bethesda, MD 20892, 301–435–1722, *eissenstatma@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in Virology.

Date: April 7, 2016.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Marci Scidmore, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3192, MSC 7808, Bethesda, MD 20892, 301–435–1149, *marci.scidmore@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowship: Infectious Diseases and Microbiology.

Date: April 7, 2016.

Time: 1:00 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Neerja Kaushik-Basu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3198, MSC 7808, Bethesda, MD 20892, (301) 435–2306, *kaushikbasun@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 9, 2016.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–05724 Filed 3–14–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Office of AIDS Research Advisory Council.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Office of AIDS Research Advisory Council.

Date: April 7, 2016.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: The next meeting of the Office of AIDS Research Advisory Council (OARAC) will be devoted to presentations and discussions on ''Next Steps in Microbicides and PrEP Research.'' In addition, an update will be provided on the latest changes made to the HHS treatment and prevention guidelines by the OARAC Working Groups responsible for the guidelines.

Place: National Institutes of Health, 5601 Fishers Lane, First Floor, Room 1D13, Rockville, MD 20852.

Contact Person: Amelia Hall, M.A., Program Analyst, Office of AIDS Research, Office of the Director, NIH, 5601 Fishers Lane, Room 2E63, Rockville, MD 20852, (301) 435–4732, *hallam@mail.nih.gov.*

Any interested person may file written comments with the Council by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and, when applicable, the business or professional affiliation. Information is also available on the OAR's home page: *http://www.oar.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: March 9, 2016.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–05729 Filed 3–14–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Clinical Neuroplasticity, Neuroscience and Neurodegeneration.

Date: April 5, 2016.

Time: 2:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Seetha Bhagavan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5194, MSC 7846, Bethesda, MD 20892, (301) 237–9838, *bhagavas@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Integrative Nutrition, Obesity and Diabetes.

Date: April 6–7, 2016.

Time: 11:00 p.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Raul Rojas, Ph.D., Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Room 6185, Bethesda, MD 20892, (301) 451–6319, *rojasr@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Infectious Disease Epidemiology.

Date: April 7, 2016.

Time: 1:00 p.m. to 3:00 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: Valerie Durrant, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3148, MSC 7770, Bethesda, MD 20892, (301) 827–6390, *durrantv@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Cancer Health Disparities/Diversity in Basic Cancer Research.

Date: April 11–12, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Juraj Bies, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Rm. 4158, MSC 7806, Bethesda, MD 20892, (301) 435–1256, *biesj@mail.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 9, 2016.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–05725 Filed 3–14–16; 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; Title: Long-term Consequences of HIV in the Kidney.

Date: April 12, 2016.

Time: 3:00 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: Michele L. Barnard, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7353, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, (301) 594–8898, *barnardm@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 9, 2016.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–05728 Filed 3–14–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; 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 on Alcohol Abuse and Alcoholism Special Emphasis Panel; CHAART Consortium RFA (U24 and U01).

Date: April 27–29, 2016.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 5635 Fishers Lane, CR 2098, Rockville, MD 20892.

Contact Person: Ranga Srinivas, Ph.D., Chief, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, 5365 Fishers Lane, Room 2085, Rockville, MD 20852, (301) 451–2067, *srinivar@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Support Awards., National Institutes of Health, HHS)

Dated: March 9, 2016.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–05727 Filed 3–14–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Immune Mechanisms.

Date: March 14, 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: Jian Wang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4095D, MSC 7812, Bethesda, MD 20892, (301) 435–2778, *wangjia@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Cardiovascular and Respiratory Sciences AREA.

Date: March 22, 2016.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Sara Ahlgren, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, RM 4136, Bethesda, MD 20892, 301–435–0904, *sara.ahlgren@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 9, 2016.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–05726 Filed 3–14–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: Services Grant Program for Residential Treatment for Pregnant and Postpartum Women (PPW) Quarterly Progress Reports—NEW

The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Substance Abuse Treatment, has developed a set of infrastructure development measures in which recipients of cooperative agreements will report on various benchmarks on a quarterly-annual basis. The infrastructure development measures are designed to collect information at the grantee-level and program-level.

The draft infrastructure measures are based on the programmatic requirements conveyed in TI–14–005, Services Grant Program for Residential Treatment for Pregnant and Postpartum Women.

The purpose of this program is to provide funding to improve treatment

for low-income (according to federal poverty guidelines) women, age 18 and over, who are pregnant, postpartum (the period after childbirth up to 12 months), and their minor children, age 17 and under, who have limited access to quality health services.

The pregnant and postpartum women program will implement parenting and treatment evidence-based practice models and a feedback loop developed to enable the grantee and the programs to identify barriers and test solutions through direct services. The expected outcomes of these grants will include decreases in the use and/or abuse of prescription drugs, alcohol, tobacco, illicit and other harmful drugs (*e.g.,* inhalants) among pregnant and postpartum women; increases in safe and healthy pregnancies; improved birth outcomes; reduced perinatal and environmentally-related effects of maternal and/or paternal drug abuse on infants and children; improved mental and physical health of women and children; prevention of mental, emotional, and behavioral disorders among the children; improved parenting skills, family functioning, economic stability, and quality of life; decreased involvement in and exposure to crime, violence, and neglect; and decreased physical, emotional, and sexual abuse for all family members. Women, their adolescents/children (up to age 17), fathers, and other family members who are provided services through grant funds will inform the process to improve systems issues.

ANNUAL DATA COLLECTION BURDEN DATA COLLECTION BURDEN

Instrument/activity	Number of respondents	Responses per respondent	Total responses	Hours per response	Total hour burden
Progress Report	25	4	100	8	800

Written comments and recommendations concerning the proposed information collection should be sent by April 14, 2016 to the SAMHSA Desk Officer at the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). To ensure timely receipt of comments, and to avoid potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov.* Although commenters are encouraged to send their comments via email, commenters may also fax their comments to: 202–395–7285. Commenters may also mail them to: Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10102, Washington, DC 20503.

Summer King,

Statistician.

[FR Doc. 2016–05770 Filed 3–14–16; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0052]

Agency Information Collection Activities: User Fees

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 30-Day notice and request for comments; Extension of an existing collection of information.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: User Fees. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with a change to the burden hours but no change to the information collected. This document is published to obtain comments from the public and affected agencies.

DATES: Written comments should be received on or before April 14, 2016 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** (80 FR 75684) on December 3, 2015, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10. CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3507). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden, including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

Title: User Fees.

OMB Number: 1651–0052.

Form Number: CBP Forms 339A, 339C and 339V.

Abstract: The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA– Pub. L. 99–272; 19 U.S.C. 58c) authorizes the collection of user fees by Customs and Border Protection (CBP). The collection of these fees requires submission of information from the party remitting the fees to CBP. This

information is submitted on three forms including the CBP Form 339A for aircraft at: *http://www.cbp.gov/sites/default/files/documents/CBP%20Form%20339A.pdf,* CBP Form 339C for commercial vehicles at: *http://www.cbp.gov/sites/default/files/documents/CBP%20Form%20339C.pdf,* and CBP Form 339V for vessels at: *http://www.cbp.gov/sites/default/files/documents/CBP%20Form%20339V.pdf.* The information on these forms may also be filed electronically at: *https://dtops.cbp.dhs.gov/.* This collection of information is provided for by 19 CFR 24.22.

In addition, CBP requires express consignment courier facilities (ECCFs) to file lists of couriers using the facility in accordance with 19 CFR 128.11. In cases of overpayments, carriers using the courier facilities may send a request to CBP for a refund in accordance with 19 CFR 24.23(b). This request must specify the grounds for the refund. ECCFs are also required to file a quarterly report in accordance with 19 CFR 24.23(b)(4).

Current Actions: This submission is being made to extend the expiration date with a change to the burden hours as a result of a new pilot that CBP is planning that will allow for a new payment option for commercial truck single-crossing user fees. This new pilot program will allow commercial truck carriers who opt for the single-crossing user fee to prepay the single-crossing user fee online via the DTOPS Web site prior to arrival at a port of entry. As a result, the estimated number of users for the DTOPS Web site (Form 339C—Vehicles) was increased from 50,000 to 90,000.

Type of Review: Extension (with change).

Affected Public: Carriers.

CBP Form 339A—Aircraft

Estimated Number of Respondents: 15,000.

Estimated Number of Annual Responses: 15,000.

Estimated Time per Response: 16 minutes.

Estimated Total Annual Burden Hours: 4,005.

CBP Form 339C—Vehicles

Estimated Number of Respondents: 90,000.

Estimated Number of Annual Responses: 90,000.

Estimated Time per Response: 20 minutes.

Estimated Total Annual Burden Hours: 29,700.

CBP Form 339V—Vessels

Estimated Number of Respondents: 10,000.

Estimated Number of Annual Responses: 10,000.

Estimated Time per Response: 16 minutes.

Estimated Total Annual Burden Hours: 2,670.

ECCF Quarterly Report

Estimated Number of Respondents: 18.

Estimated Number of Annual Responses: 72.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 144.

ECCF Application and List of Couriers

Estimated Number of Respondents: 3.

Estimated Number of Annual Responses: 12.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 6.

Dated: March 10, 2016.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2016–05829 Filed 3–14–16; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0035]

Agency Information Collection Activities: Holders or Containers Which Enter the United States Duty Free

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 30-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Holders or Containers which enter the United States Duty Free. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours or to the information collected. This document is published to obtain comments from the public and affected agencies.

DATES: Written comments should be received on or before April 14, 2016 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** (80 FR 80380) on December 24, 2015, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10. CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3507). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden, including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

Title: Holders or Containers which Enter the United States Duty Free.

OMB Number: 1651–0035.

Abstract: Item 9803.00.50 under the Harmonized Tariff Schedules of the United States (HTSUS), codified as 19 U.S.C. 1202, provides for the duty-free entry of substantial holders or containers of foreign manufacture if duty had been paid upon a previous importation pursuant to the provisions of 19 CFR 10.41b.

19 CFR 10.41 provides that substantial holders or containers are to have prescribed markings in clear and conspicuous letters of such a size that they will be easily discernable. Section 10.41b of the CBP regulations eliminates the need for an importer to file entry documents by instead requiring the marking of the containers or holders to indicate the HTSUS numbers that provide for duty free treatment of the containers or holders.

In order to comply with 19 CFR 10.41b, the owner of the holder or container is required to place the markings on a metal tag or plate containing the following information: 9801.00.10, HTSUS; the name of the owner; and the serial number assigned by the owner. In the case of serially numbered holders or containers of foreign manufacture for which free clearance under 9803.00.50 HTSUS is claimed, the owner must place markings containing the following information: 9803.00.50 HTSUS; the port code numbers of the port of entry; the entry number; the last two digits of the fiscal year of entry covering the importation of the holders and containers on which duty was paid; the name of the owner; and the serial number assigned by the owner.

Current Action: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

Type of Review: Extension (with no change).

Affected Public: Businesses.

Estimated Number of Respondents: 20.

Estimated Number of Responses per Respondent: 18.

Estimated Number of Total Annual Responses: 360.

Estimated Total Annual Burden Hours: 90.

Dated: March 10, 2016.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2016–05827 Filed 3–14–16; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0013]

Agency Information Collection Activities: Application for Travel Document, Form I–131; Extension, Without Change, of a Currently Approved Collection

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection notice was previously published in the **Federal Register** on January 7, 2016, at 81 FR 790, allowing for a 60-day public comment period. USCIS did receive three comments in connection with the 60-day notice. Note: USCIS published the 60-day notice as a revision; after further review, USCIS has decided to extend the form without changes.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until April 14, 2016. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer via email at *oira_submission@omb.eop.gov.* Comments may also be submitted via fax at (202) 395–5806. (This is not a toll-free number.) All submissions received must include the agency name and the OMB Control Number 1615–0013.

You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make. For additional information please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Acting Chief, 20 Massachusetts Avenue NW., Washington, DC 20529–2140, Telephone number (202) 272–8377. (This is not a toll-free number. Comments are not accepted via telephone message.) Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS Web site at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at (800) 375–5283; TTY (800) 767–1833.

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2007–0045 in the search box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection Request:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Travel Document.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form I–131; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Certain aliens, principally permanent or conditional residents, refugees or asylees, applicants for adjustment of status, aliens in

Temporary Protected Status (TPS), and aliens abroad seeking humanitarian parole who need to apply for a travel document to lawfully enter or reenter the United States. Eligible recipients of deferred action under childhood arrivals (DACA) may now request an advance parole documents based on humanitarian, educational and employment reasons. Lawful permanent residents may now file requests for travel permits (transportation letter or boarding foil).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–131 is 495,090 and the estimated hour burden per response is 1.9 hours; 71,665 respondents providing biometrics at 1.17 hours; and 293,733 respondents providing passport-style photographs at .50 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 1,171,386 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $148,493,790.

Dated: March 10, 2016.

Samantha Deshommes,

Acting Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2016–05839 Filed 3–14–16; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5909–N–13]

30-Day Notice of Proposed Information Collection: FHA Lender Approval, Annual Renewal, Periodic Updates and Required Reports by FHA-Approved Lenders

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* April 14, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on September 1, 2015 at 80 FR 52781.

A. Overview of Information Collection

Title of Information Collection: FHA Lender Approval, Annual Renewal, Periodic Updates and Required Reports by FHA-Approved Lenders.

OMB Approval Number: 2502–0005.

Type of Request: Revision of currently approved collection.

Form Number: Online Application for Lender Approval (previously HUD–92001–A) and Annual Certification.

Description of the need for the information and proposed use: The Secretary of the Department of Housing and Urban Development is authorized to insure lenders and mortgagees against the risk of loss in connection with certain mortgages under Titles I and II of the National Housing Act, 12 U.S.C. 1702 *et seq.* The Secretary is also authorized to prescribe criteria for approval of these lenders and mortgagees to participate in the Department's insured housing programs, including certain statutory and regulatory eligibility requirements set forth in 12 U.S.C. 1702(d)(2) and 24 CFR 202.5. See 12 U.S.C. 1702 *et seq.* and 42 U.S.C. 3535(d). Criteria for approval to become a Title I and/or Title II Mortgagee are specified in 24 CFR 202 and HUD Handbook 4000.1. Once approved, FHA lenders must provide additional information on an annual basis and within specified timeframes of certain events or business changes in order to maintain their FHA approval. Lenders already approved by FHA submit this information annually using the Lender Electronic Assessment Portal (LEAP), which is accessed via FHA Connection. Prospective lender applicants submit this information electronically using the Online Application for Lender Approval, which is accessed via the hud.gov Web site. The information is used by FHA to verify that lenders meet all approval and eligibility requirements. It is also used to assist FHA in managing its financial risks and to protect consumers from lender noncompliance with FHA regulations. Proposed revisions to the annual certification statements included in FHA's Lender Electronic Assessment Portal (LEAP) and the initial certification statements included in FHA's Online Application for Lender Approval, as well as HUD's responses to comments received from the 60-day notice, are available on HUD's Web site at: *http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/SFH_policy_drafts.*

Respondents: Regulatory or compliance.

Estimated Number of Respondents: 3,115.

Estimated Number of Responses: 13,260.

Frequency of Response: Annual/Periodic.

Average Hours per Response: 1.00 hour.

Total Estimated Burdens: 13,320 hours.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of

information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: March 10, 2016.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2016–05779 Filed 3–14–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[167 A2100DD/AAKC001030/ A0A501010.999900]

HEARTH Act Approval of Shakopee Mdewakanton Sioux Community Regulations

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: On March 3, 2016, the Bureau of Indian Affairs (BIA) approved the Shakopee Mdewakanton Sioux Community leasing regulations under the HEARTH Act. With this approval, the Tribe is authorized to enter into the following type of leases without BIA approval: Business site leases.

FOR FURTHER INFORMATION CONTACT: Sharlene Round Face, Bureau of Indian Affairs, Division of Real Estate Services, MS–4642–MIB, 1849 C Street NW., Washington, DC 20240, at (202) 208–3615.

SUPPLEMENTARY INFORMATION:

I. Summary of the HEARTH Act

The HEARTH (Helping Expedite and Advance Responsible Tribal Homeownership) Act of 2012 (the Act) makes a voluntary, alternative land leasing process available to Tribes, by amending the Indian Long-Term Leasing Act of 1955, 25 U.S.C. 415. The Act authorizes Tribes to negotiate and enter into agricultural and business leases of Tribal trust lands with a primary term of 25 years, and up to two renewal terms of 25 years each, without the approval of the Secretary of the Interior. The Act also authorizes Tribes to enter into leases for residential, recreational, religious, or educational purposes for a primary term of up to 75 years without the approval of the Secretary. Participating Tribes develop Tribal leasing regulations, including an environmental review process, and then must obtain the Secretary's approval of those regulations prior to entering into leases. The Act requires the Secretary to approve Tribal regulations if the Tribal regulations are consistent with the Department of the Interior's (the Department) leasing regulations at 25 CFR part 162 and provide for an environmental review process that meets requirements set forth in the Act. This notice announces that the Secretary, through the Assistant Secretary—Indian Affairs, has approved the Tribal regulations for the Shakopee Mdewakanton Sioux Community.

II. Federal Preemption of State and Local Taxes

The Department's regulations governing the surface leasing of trust and restricted Indian lands specify that, subject to applicable Federal law, permanent improvements on leased land, leasehold or possessory interests, and activities under the lease are not subject to State and local taxation and may be subject to taxation by the Indian Tribe with jurisdiction. *See* 25 CFR 162.017. As explained further in the preamble to the final regulations, the Federal government has a strong interest in promoting economic development, self-determination, and Tribal sovereignty. 77 FR 72440 at 72447–48 (December 5, 2012). The principles supporting the Federal preemption of State law in the field of Indian leasing and the taxation of lease-related interests and activities applies with equal force to leases entered into under Tribal leasing regulations approved by the Federal government pursuant to the HEARTH Act.

Section 5 of the Indian Reorganization Act, 25 U.S.C. 465, preempts State and local taxation of permanent improvements on trust land. *Confederated Tribes of the Chehalis Reservation* v. *Thurston County,* 724 F.3d 1153, 1157 (9th Cir. 2013) (citing *Mescalero Apache Tribe* v. *Jones,* 411 U.S. 145 (1973)). Similarly, section 465 preempts State taxation of rent payments by a lessee for leased trust lands, because ''tax on the payment of rent is indistinguishable from an impermissible tax on the land.'' *See Seminole Tribe of Florida* v. *Stranburg,* No. 14–14524, *13–*17, n.8 (11th Cir. 2015). In addition, as explained in the preamble to the revised leasing regulations at 25 CFR part 162, Federal courts have applied a balancing test to determine whether State and local taxation of non-Indians on the reservation is preempted. *White Mountain Apache Tribe* v. *Bracker,* 448 U.S. 136, 143 (1980). The *Bracker* balancing test, which is conducted against a backdrop of ''traditional notions of Indian self-government,'' requires a particularized examination of the relevant State, Federal, and Tribal interests. We hereby adopt the *Bracker* analysis from the preamble to the surface leasing regulations, 77 FR at 72447–48, as supplemented by the analysis below.

The strong Federal and Tribal interests against State and local taxation of improvements, leaseholds, and activities on land leased under the Department's leasing regulations apply equally to improvements, leaseholds, and activities on land leased pursuant to Tribal leasing regulations approved under the HEARTH Act. Congress's overarching intent was to ''allow Tribes to exercise greater control over their own land, support self-determination, and eliminate bureaucratic delays that stand in the way of homeownership and economic development in Tribal communities.'' 158 Cong. Rec. H. 2682 (May 15, 2012). The HEARTH Act was intended to afford Tribes ''flexibility to adapt lease terms to suit [their] business and cultural needs'' and to ''enable [Tribes] to approve leases quickly and efficiently.'' *Id.* at 5–6.

Assessment of State and local taxes would obstruct these express Federal policies supporting Tribal economic development and self-determination, and also threaten substantial Tribal interests in effective Tribal government, economic self-sufficiency, and territorial autonomy. *See Michigan* v. *Bay Mills Indian Community,* 134 S. Ct. 2024, 2043 (2014) (Sotomayor, J., concurring) (determining that ''[a] key goal of the Federal Government is to render Tribes more self-sufficient, and better positioned to fund their own sovereign functions, rather than relying on Federal funding''). The additional costs of State and local taxation have a chilling effect on potential lessees, as well as on a Tribe that, as a result, might refrain from exercising its own sovereign right to impose a Tribal tax to support its infrastructure needs. *See id.* at 2043–44 (finding that State and local taxes greatly discourage Tribes from raising tax revenue from the same sources because the imposition of double taxation would impede Tribal economic growth).

Just like BIA's surface leasing regulations, Tribal regulations under the HEARTH Act pervasively cover all aspects of leasing. *See* Guidance for the Approval of Tribal Leasing Regulations under the HEARTH Act, NPM–TRUS–29 (effective Jan. 16, 2013) (providing guidance on Federal review process to ensure consistency of proposed Tribal regulations with part 162 regulations and listing required Tribal regulatory

provisions). Furthermore, the Federal government remains involved in the Tribal land leasing process by approving the Tribal leasing regulations in the first instance and providing technical assistance, upon request by a Tribe, for the development of an environmental review process. The Secretary also retains authority to take any necessary actions to remedy violations of a lease or of the Tribal regulations, including terminating the lease or rescinding approval of the Tribal regulations and reassuming lease approval responsibilities. Moreover, the Secretary continues to review, approve, and monitor individual Indian land leases and other types of leases not covered under the Tribal regulations according to the part 162 regulations.

Accordingly, the Federal and Tribal interests weigh heavily in favor of preemption of State and local taxes on lease-related activities and interests, regardless of whether the lease is governed by Tribal leasing regulations or part 162. Improvements, activities, and leasehold or possessory interests may be subject to taxation by the Shakopee Mdewakanton Sioux Community.

Dated: March 3, 2016.

Lawrence S. Roberts,

Assistant Secretary—Indian Affairs.

[FR Doc. 2016–05807 Filed 3–14–16; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–IMR–YELL–20564; PPIMYELL1W, PROIESUC1.380000 (166)]

Proposed Information Collection; Reporting and Recordkeeping for Snowcoaches and Snowmobiles, Yellowstone National Park

AGENCY: National Park Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (National Park Service, NPS) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. This IC is scheduled to expire on October 31, 2016. We 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.

DATES: To ensure that we are able to consider your comments on this IC, we must receive them by May 16, 2016.

ADDRESSES: Please send your comments on the ICR to Madonna L. Baucum, Information Collection Clearance Officer, National Park Service, 12201 Sunrise Valley Drive, Room 2C114, Mail Stop 242, Reston, VA 20192 (mail); or *madonna_baucum@nps.gov* (email). Please include ''1024–0266'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this IC, contact Christina Mills, Outdoor Recreation Planner, Yellowstone National Park, National Park Service, P.O. Box 168, Yellowstone National Park, WY 82190; (307) 344–2320 (phone); or *christina_mills@nps.gov@nps.gov*. Please reference ''1024–0266'' in your communication.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Yellowstone National Park Organic Act (16 U.S.C. 21 and 22), signed March 1, 1872, established Yellowstone National Park to ''dedicate and set apart as a public park or pleasuring-ground for the benefit and enjoyment of the people'' and ''for the preservation, from injury or spoliation, of all timber, mineral deposits, natural curiosities, or wonders within said park, and their retention in their natural condition'' The Organic Act of 1916 (16 U.S.C. 1 *et seq.*) authorizes the Secretary of the Interior to develop regulations for national park units under the Department's jurisdiction.

We (NPS) provide opportunities for people to experience Yellowstone in the winter via oversnow vehicles (snowmobiles and snowcoaches, collectively OSVs). Access to most of the park in the winter is limited by distance and the harsh winter environment, which presents challenges to safety and park operations. The park does not provide wintertime OSV tours directly, but currently authorizes OSV tours through concessions contracts (for snowcoach tours) and commercial use authorizations (for snowmobile tours) with area businesses to provide transportation to visitors (Title IV, Section 403 of the National Parks Omnibus Management Act of 1998, Pub. L. 105–391). The park issued 10-year concession contracts for all OSVs starting in December 2014.

OSV use is a form of off-road vehicle use governed by Executive Order 11644 (Use of Off-road Vehicles on Public Lands, as amended by Executive Order 11989). Implementing regulations are published at 36 CFR 2.18, 36 CFR part 13, and 43 CFR part 36. Routes and areas may be designated for OSV use only by special regulation after it has first been determined through park planning to be an appropriate use that will meet the requirements of 36 CFR 2.18 and not otherwise result in unacceptable impacts.

Information collection requirements in this renewal request include:

(1) *Emission and Sound Standards (§ 7.13(l)(4)(vii) and (5)).* Only OSVs that meet NPS emission and sound standards may operate in the park. Before the start of each winter season:

(a) Snowcoach manufacturers or commercial tour operators must demonstrate, by means acceptable to the Superintendent, that their snowcoaches meet the standards.

(b) Snowmobile manufacturers must demonstrate, by means acceptable to the Superintendent, that their snowmobiles meet the standards.

(2) *Transportation Events (§ 7.13(l)(11)(i)–(iii)).* So that we can monitor compliance with the required average and maximum size of transportation events, as of December 15, 2014, each commercial tour operator must:

(a) Maintain accurate and complete records on the number of snowmobiles and snowcoaches he or she brings into the park on a daily basis. These records must be made available for inspection by the park upon request.

(b) Provide a monthly use report on their activities. We will use a form, which will be available on the park Web site, to collect the following information for transportation events:

- Report Month/Year
- Contract Number
- Departure Date
- Duration of Trip (in days)
- Transportation event type (snowmobile or snowcoach)
- Number of snowmobiles or snowcoaches
- Air/noise emissions standard (New BAT or E–BAT)
- Number of visitors and guides
- Route and primary destination
- If the transportation event allocation was from another commercial tour operator
- Administrative or guest services trip
- Transportation event group size (previous month and season to-date)

(3) *Enhanced Emission Standards (§ 7.13(l)(11)(iv)).* To qualify for the increased average size of snowmobile transportation events or increased maximum size of snowcoach transportation events, each commercial tour operator must:

(a) Before the start of each winter season, demonstrate, by means

acceptable to the Superintendent, that his or her snowmobiles or snowcoaches meet the enhanced emission standards; and

(b) Maintain separate records for snowmobiles and snowcoaches that meet enhanced emission standards and those that do not.

We will use the information collected to:

- Ensure that OSVs meet NPS emission standards to operate in the park;
- (2) evaluate commercial tour operators' compliance with allocated transportation events and daily and seasonal OSV group size limits,
- ensure that established daily transportation event limits for the park are not exceeded,
- confirm that commercial tour operators do not run out of authorizations before the end of the season and create a gap when prospective visitors cannot be accommodated, and
- guarantee compliance with applicable laws and regulations.

Responsible commercial tour operators are required to provide this information to minimize liabilities, maintain business records for tax and other purposes, obtain financial backing, and ensure a safe, efficient, and well-planned operation.

II. Data

OMB Control Number: 1024–0266.

Title: Reporting and Recordkeeping for Snowcoaches and Snowmobiles, Yellowstone National Park, 36 CFR 7.13(l).

Service Form Numbers: NPS Forms 10–650.

Type of Request: Extension of a currently approved collection.

Description of Respondents: Individuals desiring to operate snowcoaches and snowmobiles in Yellowstone National Park.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Activity	Number of respondents	Completion time per response (hours)	Total annual burden hours
Meet Emission/Sound Standards—Snowcoaches (7.13(l)(4)(vi))	12	.5	6
Meet Emission/Sound Standards—Snowmobiles (7.13(l)(5))	2	.5	1
Report and Recordkeeping (7.13(l)(11)(i)–(iii))	45	2	90
Meet Enhanced Emission Standards (7.13(l)(11)(iv))	5	.5	3
Total	64		100

Estimated Annual Nonhour Cost Burden: None.

III. Comments

We invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this IC. 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.

Dated: March 9, 2016.

Madonna L. Baucum,

Information Collection Clearance Officer, National Park Service.

[FR Doc. 2016–05783 Filed 3–14–16; 8:45 am]

BILLING CODE 4310–EH–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–20326; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting comments on the significance of properties nominated before February 6, 2016, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted by March 30, 2016.

ADDRESSES: Comments may be sent via U.S. Postal Service to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447.

SUPPLEMENTARY INFORMATION:

The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before February 6, 2016. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

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.

CALIFORNIA

Riverside County

Alexander, Dr. Franz, House, 1011 W. Cielo Dr., Palm Springs, 16000093

Sacramento County

American Cash Apartments—American Cash Store, 1117–1123 8th St., Sacramento, 16000094

San Luis Obispo County

Paso Robles Almond Growers Association Warehouse, 525 Riverside Ave., Paso Robles, 16000095

San Mateo County

Whifler, William A., House, 1544 Drake Ave., Burlingame, 16000096

Santa Barbara County

Santa Barbara Veterans Memorial Building, 112 W. Cabrillo St., Santa Barbara, 16000097

COLORADO

Montezuma County

Cortez High School, 121 E. First St., Cortez, 16000098

MASSACHUSETTS

Norfolk County

Eustis Estate Historic District, Address Restricted, Milton, 16000099

MISSOURI

Cole County

St. Francis Xavier Catholic Church and Rectory, (Rural Church Architecture of Missouri, c. 1819 to c. 1945 MPS) 7319 Cty. Rd. M, Taos, 16000100

St. Louis Independent City

Alexander, M.W., House, 3965 Westminster Pl., St. Louis (Independent City), 16000101
Holly Hills Historic District, Bounded by Holly Hills Blvd., MPRR, alley N. of Dover Pl., Leona St. & Ray Ave., St. Louis (Independent City), 16000102
Welfare Finance Company Building, 1027–29 N. Grand Blvd., St. Louis (Independent City), 16000103

NEBRASKA

Adams County

Foote Clinic, 422 N. Hastings Ave., Hastings, 16000104

Cass County

Ruffner, Peter E., House, 501 N. 8th St., Plattsmouth, 16000105

Otoe County

Memorial Building, 810 1st Corso, Nebraska City, 16000106

NEW YORK

Columbia County

Persons of Color Cemetery at Kinderhook, E. of Rothermel Ave., Kinderhook, 16000107

Erie County

Elmwood Historic District East, Portions of Auburn, Bird, Cleveland, Delaware, Elmwood, Forest & Hodge Aves., Anderson, Atlantic & Berkley Pls., Buffalo, 16000108

Essex County

Uplands, The, 35 Thorne Way, Keene Valley, 16000109

Jefferson County

Public Square Historic District (Boundary Increase), J.B. Wise & Park Pls., Arcade & Stone Sts., Watertown, 16000110

Kings County

Crown Heights North Historic District (Boundary Increase), Albany, Brooklyn & St. Mark's Aves., Dean & Pacific Sts., Hampton, Lincoln, Park, Prospect, Revere & St. John's Pls., New York, 16000111

Richmond County

Richmond Terrace Cemeteries, 1562 Richmond Terr. & 25 Van St., Staten Island, 16000112

Suffolk County

Long Island National Cemetery, (Inter-World War National Cemeteries, 1934–1939 MPS) 2040 Wellwood Ave., Farmingdale, 16000113

OHIO

Trumbull County

Swift—Kinsman House, 8426 State Rd., Kinsman Township, 16000114

TENNESSEE

Bradley County

Cleveland Commercial Historic District, Roughly bounded by 50–100 blk. of Central Ave., 10–100 blk. of Church & 100 blk. of Inman Sts., 100 blk. of 2nd St., SE., Cleveland, 16000115

Davidson County

Bluefields Historic District, 2600–2733 Bluefield Ave., 201–279 Cumberland & 2700–2724 Overhill Cirs., 104–165 Spring Valley Dr., Nashville, 16000116

Inglewood Place Historic District,

Golf, Greenfield, Howard, Jakes, Katherine, Kennedy, Kirkland, McChesney, Riverside, Shelton & Stratford Aves., Nashville, 16000117
Kenner Manor Historic District, 672–910 Clearview Dr., 700–722 Crescent Rd., 100–201 Kenner Ave., 200–313 Woodmont Cir., Nashville, 16000118

Hamblen County

Morristown Main Street Historic District, 101–119 E. Main, 200–243 W. Main, 113–133, 118–134 N. Henry, 111–121 N. Cumberland, 110–128 S. Cumberland Sts., Morristown, 16000120

Knox County

Hilltop, (Knoxville and Knox County MPS) 5617 Lyons View Pike, Knoxville, 16000119

TEXAS

Nueces County

600 Building, 600 Leopard St., Corpus Christi, 16000121

Tarrant County

Rogers, Will, Memorial Center, 3401 W. Lancaster Ave., Fort Worth, 16000122

UTAH

Davis County

Smoot Dairy Farmhouse, 1697 N. Main St., Centerville, 16000123

Salt Lake County

Sugden, Roberta, House, 1810 E. Orchard Dr., Salt Lake City, 16000124
Warehouse District (Boundary Increase), (Salt Lake City Business District MRA) Roughly bounded by I–15, US 50 S., W. Temple St., 300 West & 1000 South, Salt Lake City, 16000125

A request to move has been received for the following resource:

CONNECTICUT

Fairfield County

Hoyt-Barnum House, 713 Bedford St., Stamford, 69000199

A request for removal has been received for the following resources:

NEBRASKA

Adams County

Antioch School, Near Crooked Creek, Pauline, 88000914

Franklin County

Lincoln Hotel, 519 15th Ave., Franklin, 89000799

TENNESSEE

Obion County

Colored Hotel, 208 Nash St., Union City, 08000284

VERMONT

Addison County

Brooksville Advent Church, 1338 Dog Team Tavern Rd., New Haven, 02001380
Dog Team Tavern, 1338 Dog Team Tavern Rd., New Haven, 02001381

Chittenden County

Chittenden County Courthouse, 180 Church St., Burlington, 73000192

Authority: 60.13 of 36 CFR part 60.

Dated: February 10, 2016.

Elaine Jackson-Retondo,

Acting Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2016–05735 Filed 3–14–16; 8:45 am]

BILLING CODE 4312–51–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–539 and 731–TA–1280–1282 (Final)]

Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes From Korea, Mexico, and Turkey; Scheduling of the Final Phase of Countervailing Duty and Antidumping Duty Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping and countervailing duty investigation Nos. 701–TA–539 and 731–TA–1280–1282 (Final) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether

an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of heavy walled rectangular welded carbon steel pipes and tubes from Korea, Mexico, and Turkey, provided for in subheadings 7306.61.10 and 7306.61.30 of the Harmonized Tariff Schedule of the United States, preliminarily determined by the Department of Commerce to be sold at less-than-fair-value and subsidized by the government of Turkey.[1]

DATES: *Effective Date:* March 1, 2016.

FOR FURTHER INFORMATION CONTACT: Carolyn Carlson (202–205–3002), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background.—The final phase of these investigations is being scheduled pursuant to sections 705(b) and 731(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b) and 1673d(b)), as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in Turkey of heavy walled rectangular welded carbon steel pipes and tubes, and that such products from Korea, Mexico, and Turkey are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in petitions filed on July 21, 2015, by Atlas Tube, a division of JMC Steel Group (Chicago, Illinois), Bull Moose Tube Company (Chesterfield, Missouri), EXLTUBE (North Kansas City, Missouri), Hannibal Industries, Inc. (Los Angeles, California), Independence Tube Corporation (Chicago, Illinois), Maruichi American Corporation (Santa Fe Springs, California), Searing Industries (Rancho Cucamonga, California), Southland Tube (Birmingham, Alabama), and Vest, Inc. (Los Angeles, California).

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on June 29, 2016, and a public version will be issued thereafter, pursuant to § 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on Thursday, July 14, 2016, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before July 8, 2016. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should participate in a prehearing conference to be held on July 11, 2016, at the U.S. International Trade Commission Building, if deemed necessary. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.23 of the Commission's rules; the deadline for filing is July 7, 2016. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.25 of the Commission's rules. The deadline for filing posthearing briefs is July 21, 2016. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before July 21, 2016. On August 10, 2016, the

[1] For purposes of these investigations, the Department of Commerce has defined the subject merchandise as certain heavy walled rectangular welded steel pipes and tubes of rectangular (including square) cross section, having a nominal wall thickness of not less than 4 mm. The merchandise includes, but is not limited to, the American Society for Testing and Materials (ASTM) A–500, grade B specifications, or comparable domestic or foreign specifications. For a full description of the scope of these investigations, see *Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes From the Republic of Turkey: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Determination,* 80 FR 80749, December 28, 2015; *Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes From the Republic of Turkey: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 81 FR 10583, March 1, 2016; *Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes From the Republic of Korea: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 81 FR 10585, March 1, 2016; *Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes From Mexico: Affirmative Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 81 FR 10587, March 1, 2016.

Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before August 12, 2016, but such final comments must not contain new factual information and must otherwise comply with § 207.30 of the Commission's rules. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on E-Filing,* available on the Commission's Web site at *http://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing.

Additional written submissions to the Commission, including requests pursuant to § 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.21 of the Commission's rules.

By order of the Commission.

Issued: March 10, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–05812 Filed 3–14–16; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1314 (Preliminary)]

Phosphor Copper From Korea; Institution of Antidumping Duty Investigation and Scheduling of Preliminary Phase Investigation

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the institution of an investigation and commencement of preliminary phase antidumping duty investigation No. 731–TA–1314 (Preliminary) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of phosphor copper from Korea, provided for in subheading 7405.00.10 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation, the Commission must reach a preliminary determination in antidumping duty investigations in 45 days, or in this case by April 25, 2016. The Commission's views must be transmitted to Commerce within five business days thereafter, or by May 2, 2016.

DATES: *Effective Date:* March 9, 2016.

FOR FURTHER INFORMATION CONTACT: Michael Szustakowski ((202) 205–3169), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), in response to a petition filed on March 9, 2016, by Metallurgical Products Company, West Chester, PA.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

Participation in the investigation and public service list.—Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this investigation available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigation under the APO issued in the investigation, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Investigations has scheduled a conference in connection with this investigation for 9:30 a.m. on Wednesday, March 30, 2016, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Requests to appear at the conference should be emailed to *William.bishop@usitc.gov* and *Sharon.bellamy@usitc.gov* (DO NOT FILE ON EDIS) on or before Monday, March 28, 2016. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before April 4, 2016, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference. All written submissions must conform with the provisions of section 201.8 of the Commission's rules;

any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's Handbook on E-Filing, available on the Commission's Web site at *http://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: March 9, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–05746 Filed 3–14–16; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1123–0010]

Agency Information Collection Activities: Proposed eCollection; eComments Requested; Request for Registration Under the Gambling Devices Act of 1962

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Criminal Division, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until May 16, 2016.

FOR FURTHER INFORMATION CONTACT: If you have 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 Sandra A. Holland, U.S. Department of Justice, 950 Pennsylvania Avenue NW., Criminal Division, Office of Enforcement Operations, Gambling Device Registration Program, JCK Building, Washington, DC 20530–0001.

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 agencies 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.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *Title of the Form/Collection:* Request for Registration Under the Gambling Devices Act of 1962.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: DOJ\CRM\OEO\GDR–1. Sponsoring component: Criminal Division, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other: Not-for-profit institutions, individuals or households, and State, Local or Tribal Government. The form can be used by any entity required to register under the Gambling Devices Act of 1962 (15 U.S.C. 1171–1178).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 7,800 respondents will complete each form within approximately 5 minutes.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 650 total annual burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Suite 3E.405B, Washington, DC 20530.

Dated: March 9, 2016.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2016–05734 Filed 3–14–16; 8:45 am]

BILLING CODE 4410–14–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On March 7, 2016, the Department of Justice lodged a proposed consent decree with the United States District Court for the District of South Carolina in the lawsuit entitled *United States* v. *Vigindustries Inc.,* Civil Action No. 7:16–cv–00721–MGL.

The United States, on behalf of the U.S. Environmental Protection Agency (''EPA), filed this lawsuit under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). The complaint seeks performance of response actions to address the International Mineral and Chemical Corporation Fertilizer Superfund Site in Spartanburg, South Carolina, recovery of costs that the United States incurred responding to releases of hazardous substances at the site, and recovery of costs that the United States will incur overseeing implementation of the remedy at the site. The proposed consent decree requires Vigindustries, Inc. to perform the remedial action that EPA selected for the site, pay $116,635.85 in unreimbursed response costs, and pay response costs to be incurred by EPA at the site.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Vigindustries Inc.,* D.J. Ref. No. 90–11–3–11251. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov*

To submit comments:	*Send them to:*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611

During the public comment period, the consent decree may be examined and downloaded at this Justice Department Web site: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library,
U.S. DOJ—ENRD,
P.O. Box 7611,
Washington, DC 20044–7611.

Please enclose a check or money order for $63.75 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the exhibits and signature pages, the cost is $9.75.

Henry S. Friedman,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2016–05765 Filed 3–14–16; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

[OMB Number 1140–0049]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Application for National Firearms Examiner Academy (ATF F 6330.1.)

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 30-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. The proposed information collection was previously published in the **Federal Register** 81 *FR* 1214, on January 11, 2016, allowing for a 60-day comment period.

DATES: Comments are encouraged and will be accepted for an additional 30 days until April 14, 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 Sheila Hopkins, Program Manager, National Laboratory Center, 6000 Ammendale Road, Ammendale, MD 20705 at email: *Sheila.Hopkins@atf.gov.* Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. 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:* Revision of a currently approved collection.

2. *The Title of the Form/Collection:* Application for National Firearms Examiner Academy.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: ATF F 6330.1.

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: State, Local or Tribal Government.

Other: Federal Government.

Abstract: The Office of Science and Technology, Forensic Services offers the National Firearms Examiner Academy (NFEA) training program for entry level firearms and toolmark examiners. This program is designed in part to address the critical law enforcement needs of the services provided by firearms and toolmark examiners, and is to be offered qualified applicants from state, local, and federal law enforcement agencies and to newly appointed ATF firearms and toolmark examiners.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 75 respondents will take 12 minutes to complete the questionnaire.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 15 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 10, 2016.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2016–05786 Filed 3–14–16; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

[OMB Number 1140–0043]

Agency Information Collection Activities; Proposed eCollection eComments Requested; National Tracing Center Trace Request (ATF F 3312.1)

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 30-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. The proposed information collection was previously published in the **Federal Register** 81 FR 2912, on January 19,

2016 allowing for a 60-day comment period.

DATES: Comments are encouraged and will be accepted for an additional 30 days until April 14, 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 Larry Penninger, Jr., National Tracing Center, 244 Needy Road, Martinsburg, WV 25405, at telephone number or email: 1–800–788–7133 or *larry.penninger@atf.gov.* Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. 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:* Extension of a currently approved collection.

2. *The Title of the Form/Collection:* National Tracing Center Trace Request

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: ATF F 3312.1.

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: Federal Government.

Other: State, Local, or Tribal Government.

Abstract: The ATF Form 3312.1 is used by Federal, State, local and certain foreign law enforcement officials to request that the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) trace firearms used or suspected to have been used in crimes.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 6,103 respondents will take 6 minutes to complete the form.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 34,448 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 10, 2016.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2016–05785 Filed 3–14–16; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

[OMB Number 1140–0006]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Application and Permit for Importation of Firearms, Ammunition and Defense Articles, ATF Form 6, Part II (5330.3B)

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 30-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. The proposed information collection was previously published in the **Federal Register** 81 *FR* 1217, on January 11, 2016, allowing for a 60-day comment period.

DATES: Comments are encouraged and will be accepted for an additional 30 days until April 14, 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 Desiree Dickinson, Industry Liaison, Firearms and Explosives Imports Branch, 244 Needy Road, Martinsburg, WV 25405, at email: *Desiree.Dickinson@atf.gov.* Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. 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:* Revision of a currently approved collection.

2. *The Title of the Form/Collection:* Application and Permit for Importation of Firearms, Ammunition and Defense Articles.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: ATF Form 6, Part II (5330.3B).

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: Individuals or households.

Other: Business or other for-profit; Federal Government; State, Local, or Tribal Government.

Abstract: The form is used to determine if the article(s) described on the application qualifies for importation by the importer, and to serve as the authorization for the importer. In addition, information may be disclosed to other Federal, State, foreign and local law enforcement and regulatory agency personnel to verify information on the application, and to aid in the performance of their duties with respect to the enforcement and regulation of firearms and/or ammunition where such disclosure is not prohibited by law.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 400 respondents will take 30 minutes to complete the form.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 200 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 10, 2016.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2016–05793 Filed 3–14–16; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

[OMB Number 1140–0002]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Application for Restoration of Firearms Privileges

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 30-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. The proposed information collection was previously published in the **Federal Register** 81 *FR* 1216, on January 11, 2016, allowing for a 60-day comment period.

DATES: Comments are encouraged and will be accepted for 30 days until April 14, 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 Laurie O'Lena, Program Manager, ATF National Center for Explosives Training and Research Corporal Road, Bldg. 3750 Redstone Arsenal, Huntsville, AL 35898 at email: *Laura.O'Lena@atf.gov.* Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. 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:* Application for Restoration of Firearms Privileges.

3. *The agency form number, if any, and the applicable component of the Departmentsponsoring the collection*:

Form number (if applicable): ATF F 3210.1.

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: Individuals or households.

Other (if applicable): None.

Abstract: The information requested is collected to fulfill the requirements of 18 U.S.C. Chapter 44. Under Federal law, individuals prohibited from purchasing, possessing, receiving, or transporting firearms are permitted to apply for restoration of their firearms privileges. The information to be supplied must identify the specifics of the applicant's appeal for restoration of privileges. The information is investigated, processed, examined, and stored initially at ATF Headquarters.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 250 respondents will take 30 minutes to complete the survey.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 125 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 10, 2016.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2016–05792 Filed 3–14–16; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

[OMB Number 1140–0094]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Certification of Qualifying State Relief From Disabilities Program (ATF Form 3210.12)

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 30-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. The proposed information collection was previously published in the **Federal Register** 81 *FR* 1221, on January 11, 2016, allowing for a 60-day comment period.

DATES: Comments are encouraged and will be accepted for an additional 30 days until April 14, 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 Carolyn King, Program Manager, Firearms Explosives Industry Division, 99 New York Avenue NE., Washington, DC 20226, at telephone number or email: 202–648–7825 or *Carolyn.King@atf.gov.* Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to *OIRA_submissions@omb.eop.gov*.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. 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:* Revision of a currently approved collection.

2. *The Title of the Form/Collection:* Certification of Qualifying State Relief from Disabilities Program.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: ATF Form 3210.12.

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: State, Local, or Tribal Government.

Other: None.

Abstract: This form is to be used by a State to certify to the U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) that it has established a qualifying mental health relief from firearms disabilities program that satisfies certain minimum criteria established by the NICS Improvement Amendment Act of 2007, Public Law 110–180, Section 105, enacted January 8, 2008 (NIAA). This certification is required for States to be eligible for certain grants authorized by the NIAA.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 50 respondents will take 15 minutes to complete the questionnaire.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 13 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 10, 2016.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2016–05790 Filed 3–14–16; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

[OMB Number 1117–0008]

Agency Information Collection Activities; Proposed eCollection, eComments Requested; Extension Without Change of a Previously Approved Collection, Application for Procurement Quota for a Controlled Substance and for Ephedrine, Pseudoephedrine, and Phenylpropanolamine, DEA Form 250

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Drug Enforcement Administration (DEA), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. This proposed information collection was previously published in the **Federal Register** at 81 *FR* 1219, on January 11, 2016, allowing for a 60 day comment period.

DATES: Comments are encouraged and will be accepted for an additional 30 days until April 14, 2016.

FOR FURTHER INFORMATION CONTACT: If you have comments 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 Barbara J. Boockholdt, Office of Diversion Control, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152; Telephone: (202) 598–6812. Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to *OIRA_submissions@omb.eop.gov*.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. 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 proposed 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 forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Extension of a currently approved collection.

2. *Title of the Form/Collection:* Application for Procurement Quota for Controlled Substance and for Ephedrine, Pseudoephedrine, and Phenylpropanolamine (DEA Form 250).

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form Number: DEA Form 250. The applicable component within the Department of Justice is the Drug Enforcement Administration, Office of Diversion Control.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Affected public (Primary): Business or other for-profit.

Affected public (Other): None.

Abstract: Any United States companies that desire to use any basic class of controlled substances listed in schedule I or II or the List I chemicals ephedrine, pseudoephedrine, or phenylpropanolamine for purposes of manufacturing during the next calendar year shall apply on DEA Form 250 for a procurement quota for such class.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The DEA estimates that each form takes 0.5 hours to complete. In total, 417 respondents submit 2,960 responses, with each response taking 0.5 hours to complete.

6. *An estimate of the total public burden (in hours) associated with the proposed collection:* The DEA estimates that this collection takes 1,480 annual burden hours.

If additional information is required please 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., Suite 3E.405B, Washington, DC 20530.

Dated: March 10, 2016.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2016–05796 Filed 3–14–16; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

[OMB Number 1117–0006]

Agency Information Collection Activities; Proposed eCollection, eComments Requested; Extension Without Change of a Previously Approved Collection Application for Individual Manufacturing Quota for a Basic Class of Controlled Substance and for Ephedrine, Pseudoephedrine, and Phenylpropanolamine DEA Form 189

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Drug Enforcement Administration (DEA), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. This proposed information collection was previously published in the **Federal Register** at 81 *FR* 1219, on January 11, 2016, allowing for a 60 day comment period.

DATES: Comments are encouraged and will be accepted for an additional 30 days until April 14, 2016.

FOR FURTHER INFORMATION CONTACT: If you have comments 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 Barbara J. Boockholdt, Office of Diversion Control, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152; Telephone: (202) 598–6812. Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. 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 proposed 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 forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Extension of a currently approved collection.

2. *Title of the Form/Collection:* Application for Individual Manufacturing Quota for a Basic Class of Controlled Substance and for Ephedrine, Pseudoephedrine, and Phenylpropanolamine (DEA Form 189).

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form Number: DEA Form 189. The applicable component within the Department of Justice is the Drug Enforcement Administration, Office of Diversion Control.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Affected public (Primary): Business or other for-profit.

Affected public (Other): None.

Abstract: The Controlled Substance Act (CSA) require that any person who is registered to manufacture any basic class of controlled substances listed in Schedule I or II and who desires to manufacture a quantity of such class; or who desires to manufacture using the List I chemicals ephedrine,

pseudoephedrine, or phenylpropanolamine, must complete the DEA Form 189 online, for a manufacturing quota for such quantity of such class or List I chemical.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The DEA estimates that each form takes 0.5 hours to complete. In total, 34 respondents submit 660 responses, with each response taking 0.5 hours to complete.

6. *An estimate of the total public burden (in hours) associated with the proposed collection:* The DEA estimates that this collection takes 330 annual burden hours.

If additional information is required please 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., Suite 3E.405B, Washington, DC 20530.

Dated: March 10, 2016.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2016–05791 Filed 3–14–16; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

[OMB Number 1140–0077]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Report of Stolen or Lost ATF Forms 5400.30, Intrastate Purchase Explosive Coupon

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 30-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. The proposed information collection was previously published in the **Federal Register** 81 *FR* 1225, on January 11, 2016, allowing for a 60-day comment period.

DATES: Comments are encouraged and will be accepted for 30 days until April 14, 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 Christopher Reeves, Chief, Federal Firearms Licensing Center, 244 Needy Road, Martinsburg, WV 25405, at email: *Christopher.Reeves@atf.gov.* Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. 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:* Report of Stolen or Lost ATF Forms 5400.30, Intrastate Purchase Explosive Coupon.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number (if applicable): ATF Form 5400.30.

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: Business or other for-profit.

Other (if applicable): Individuals or households.

Abstract: When any Intrastate Purchase of Explosives Coupon is stolen, lost or destroyed, the person losing possession will, upon discovery of the theft, loss or destruction, immediately, but in all cases before 24 hours have elapsed since discovery, report the matter to the Director, Alcohol, Tobacco, Firearms and Explosives.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 10 respondents will take 20 minutes to complete the survey.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 3.5 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 10, 2016.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2016–05788 Filed 3–14–16; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

[OMB Number 1140–0075]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Transactions Among Licensees/Permittees, Limited

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 30-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. The proposed information collection was previously published in the **Federal Register** 81 *FR* 1213, on January 11, 2016, allowing for a 60-day comment period.

DATES: Comments are encouraged and will be accepted for an additional 30 days until April 14, 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 Anita Scheddel, Program Analyst, Explosives Industry Programs Branch, 99 New York Ave. NE., Washington, DC 20226 at email: *Anita.Scheddel@atf.gov.* Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to *OIRA_submissions@omb.eop.gov*.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. 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:* Extension of a currently approved collection.

2. *The Title of the Form/Collection:* Transactions Among Licensees/ Permittees, Limited

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: 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: Business or other for-profit.

Other: None.

Abstract: Specific requirements for licensees and permittees regarding limited explosive permits are outlined in this information collection. The transactions are stated in #1. of this supporting statement. This information will be used by ATF to implement the provisions of the Safe Explosives Act.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 125 respondents will take 30 minutes to provide the required information.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 63 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 10, 2016.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2016–05787 Filed 3–14–16; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

[OMB Number 1140–0025]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Limited Permittee Transaction Report (ATF Form 5400.4)

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 30-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. The proposed information collection was previously published in the **Federal Register** 81 *FR* 1218, on January 11, 2016, allowing for a 60-day comment period.

DATES: Comments are encouraged and will be accepted for an additional 30 days until April 14, 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 Anita Scheddel, Program Analyst, Explosives Industry Programs Branch, 99 New York Ave. NE., Washington, DC 20226 at email: *Anita.Scheddel@atf.gov.* Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. 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:* Extension of a currently approved collection.

2. *The Title of the Form/Collection:* Limited Permittee Transaction Report

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: ATF F 5400.4.

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: Individuals or households.

Other: Businesses or other non-profit.

Abstract: The purpose of this collection is to enable ATF to determine whether limited permittees have exceeded the number of receipts of explosives materials they are allowed and to determine the eligibility of such persons to purchase explosive materials.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 125 respondents will take 20 minutes to complete the form.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 250 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 10, 2016.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2016–05795 Filed 3–14–16; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

[OMB Number 1140–0081]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Appeals of Background Checks

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 30-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. The proposed information collection was previously published in the **Federal Register** 81 *FR* 1220, on January 11, 2016, allowing for a 60-day comment period.

DATES: Comments are encouraged and will be accepted for 30 days until April 14, 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 Shawn Stevens, Federal Explosives Licensing Center, 244 Needy Road, Martinsburg, WV 25405, at email or telephone number: *Shawn.C.Stevens@usdoj.gov* or 1–877–283–3352. Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to *OIRA_submissions@omb.eop.gov*.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. 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:* Appeals of Background Checks.

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: Individuals or households.

Other (if applicable): Businesses or other non-profit.

Abstract: This collection allows responsible person or employee to challenge an adverse background check determination by submitting appropriate documentation to the ATF.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 500 respondents will take 2 hours to complete the survey.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 1,000 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 10, 2016.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2016–05789 Filed 3–14–16; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

[OMB Number 1140–0009]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Application To Register as an Importer of U.S. Munitions Import List Articles—ATF Form 4587 (5330.4)

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 30-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. The proposed information collection was previously published in the **Federal Register** 81 FR 1211, on January 11, 2016, allowing for a 60-day comment period.

DATES: Comments are encouraged and will be accepted for an additional 30 days until April 14, 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 Desiree M. Dickinson, Industry Liaison, ATF Firearms and Explosives Imports Branch, 244 Needy Road, Martinsburg, WV 25405 at email: *desiree.dickinson@atf.gov.* Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. 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:* Revision of a currently approved collection.

2. *The Title of the Form/Collection:* Application to Register as an Importer of U.S. Munitions Import List Articles.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: ATF Form 4587 (5330.4).

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: Business or other for-profit.

Other: None.

Abstract: The purpose of this information collection is to allow ATF to determine if the registrant qualifies to engage in the business of importing a firearm or firearms, ammunition, and the implements of war, and to facilitate the collection of registration fees.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 300 respondents will take 30 minutes to complete the questionnaire.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 150 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 10, 2016.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2016–05794 Filed 3–14–16; 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; Unemployment Compensation for Ex-Servicemembers Handbook

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Employment and Training Administration (ETA) sponsored information collection request (ICR) titled, ''Unemployment Compensation for Ex-Servicemembers Handbook,'' 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 14, 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=201510-1205-005* (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–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, 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 Unemployment Compensation for Ex-Servicemembers Handbook information collection. The Unemployment Compensation for Ex-Servicemembers Act (UCXA), 5 U.S.C. 8521 *et seq.,* provides unemployment insurance protection to former members of the Armed Forces. The UCXA requires a State Workforce Agency (SWA) to administer the Unemployment Compensation for Ex-Servicemembers (UCX) Program in accordance with the same terms and conditions of State unemployment insurance law that apply to unemployed claimants who have worked in the private sector. Each SWA must obtain certain military service information about a claimant filing for UCX benefits in order to make a benefit-eligibility determination. A SWA may record or obtain required UCX information on Form ETA–843, Request for Military Document and Information. Use of this form may be essential to the UCX claims process. Optional-use Form ETA–841, Request for Determination of Federal Military Service and Wages, is also part of this information collection. Information pertaining to the UCX claimant can only be obtained from the

individual's military discharge papers, the appropriate branch of military service, or the Department of Veterans' Affairs. Without a claimant's military information, a SWA cannot adequately determine the eligibility of ex-servicemembers and would not be properly able to administer the program. UCXA section 3 and Social Security Act section 303(a)(6) authorize this information collection. *See* 5 U.S.C. 8523; 42 U.S.C. 503(a)(6).

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 1205–0176.

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 August 12, 2015 (80 FR 48339).

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 1205–0176. 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 Compensation for Ex-Servicemembers Handbook.

OMB Control Number: 1205–0176.

Affected Public: Individuals or Households; State, Local, and Tribal Governments.

Total Estimated Number of Respondents: 102,735.

Total Estimated Number of Responses: 107,816.

Total Estimated Annual Time Burden: 2,139 hours.

Total Estimated Annual Other Costs Burden: $0.

Dated: March 9, 2016.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2016–05809 Filed 3–14–16; 8:45 am]

BILLING CODE 4510–FW–P

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy; Determination of Statutory Formula Benchmark Compensation Amount for Certain Executives and Contractor Employees

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Notice.

SUMMARY: The Office of Management and Budget is publishing the attached memorandum to the Heads of Executive Departments and Agencies announcing that the ''benchmark compensation amount'' for certain executives and contractor employees in terms of costs allowable under Federal Government covered contracts during the contractor's fiscal years 2013 and 2014 is $980,796 and $1,144,888, respectively. These statutory formula cap determinations are required under Section 39 of the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 1127). These benchmark compensation amounts apply to both defense and civilian agencies for their respective applicable periods, but only for contracts awarded before June 24, 2014.

FOR FURTHER INFORMATION CONTACT: Raymond Wong, Office of Federal Procurement Policy, at 202–395–6805.

Anne E. Rung,

Administrator, Office of Federal Procurement Policy.

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: Anne E. Rung, Administrator, Office of Federal Procurement Policy.

SUBJECT: Determination of the Statutory Formula Benchmark Compensation Amount for Fiscal Years 2013 and 2014 for Certain Executives and Contractor Employees, Pursuant to Section 39 of the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 1127)

This memorandum sets forth the benchmark compensation amount for certain employees of Federal Government contractors as required by Section 39 of the Office of Federal Procurement Policy (OFPP) Act, as amended (41 U.S.C. 1127, otherwise known as the statutory formula cap) for the cost allowability purposes of section 4304(a)(16) of title 41 and section 2324(e)(1)(P) of title 10 for covered contracts awarded before June 24, 2014. For covered contracts awarded on or after June 24, 2014, a new cap applies pursuant to section 702 of the Bipartisan Budget Act of 2013 (BBA), Pub. L. 113–67, December 26, 2013.

For contracts awarded prior to June 24, 2014, section 1127 limits the reimbursement or allowability of compensation costs under Federal Government contracts as implemented at Federal Acquisition Regulation (FAR) 31.205–6(p). In less technical terms, the statutory formula cap places a ceiling on the total annual compensation costs the Federal Government will reimburse a contractor for the compensation package the contractor provides to certain of its employees for work done pursuant to certain Federal Government covered contracts. This statutory formula cap applies to limit the reimbursement of the compensation costs of certain contractor senior executives on covered contracts with civilian and defense agencies. Additionally, as a result of changes made by section 803 of the National Defense Authorization Act for FY 2012, Public Law 112–81, December 31, 2011, for covered contracts with defense agencies (*i.e.,* DOD, NASA and Coast Guard), the statutory formula cap was expanded to cover all other contractor employees and applies to the compensation costs incurred after

December 31, 2011. With both civilian and defense agencies, the statutory formula cap applies only when the contractor is performing covered contracts that are of either a cost-reimbursable nature or other cost-based nature.

Section 1127 sets out a formula for determining the cap amount. Specifically, the statutory formula cap amount is set at the median (50th percentile) amount of compensation provided, over the most recent year for which data is available, to the five most highly compensated employees in management positions at each home office and each segment of all publicly-owned U.S. companies with annual sales over $50 million. The determination is based on analysis of data made available by the Securities and Exchange Commission. Compensation means the total amount of wages, salaries, bonuses, restricted stock, deferred and performance incentive compensation, and other compensation for the year, whether paid, earned, or otherwise accruing, as recorded in the employer's cost accounting records for the year.

Since enactment of the statutory formula in 1998, the cap has increased more than 300%. In 2010, the President began calling on Congress to replace the current statutory formula cap with a lower, more sensible limit that is on par with what the Government pays its own executives and employees. In December 2013, with the Administration's strong support, Congress reformed the ceiling on the reimbursement of contractor employee compensation. Section 702 of the BBA replaced section 1127 with a new cap of $487,000 to be adjusted annually to reflect the change in the Employment Cost Index for all workers as calculated by the Bureau of Labor Statistics (otherwise known as the BBA cap). The new $487,000 BBA cap provides a reasonable level of compensation for high value Federal contractor employees while ensuring taxpayers are not saddled with paying excessive compensation costs. On June 24, 2014, the Federal Acquisition Regulatory Council issued an interim rule to amend the Federal Acquisition Regulation to reflect the new BBA cap and issuance of a final rule is pending. However, the new $487,000 BBA cap applies on a prospective basis only to contracts awarded on or after June 24, 2014. Because the statutory formula cap continues to apply to contracts awarded before June 24, 2014, the Administration is compelled by statute to determine the statutory formula cap amount for FYs 2013 and 2014 in accordance with the statutory formula set forth in section 1127 to address these pre-existing contracts.

After consultation with the Director of the Defense Contract Audit Agency, OFPP has determined, pursuant to the requirements of section 1127, that the statutory formula cap amount for the ceiling on the compensation of a contractor employee covered by this provision is $980,796 for FY 2013, and $1,144,888 for FY 2014. Each of these statutory formula cap amounts applies to limit the reimbursement, by the Government to the contractor, of the costs of compensation for certain contractor employees for costs incurred on all covered contracts, at the beginning of the contractor FY that begins January 1 for the respective year (or pro-rated over that portion of the contractor FY that includes January 1 for the respective year). The statutory formula cap amount (*i.e.,* $980,796) for FY 2013 is applicable to compensation costs incurred on all covered contracts during the period of January 1, 2013 through December 31, 2013 for the contractor's fiscal year. The statutory formula cap amount (*i.e.,* $1,144,888) for FY 2014 is applicable on all covered contracts to compensation costs incurred as of January 1, 2014 and continues in subsequent contractor FYs, unless and until revised by OFPP. As explained above, this statutory formula cap applies only to covered contracts awarded before June 24, 2014 for both defense and civilian procurement agencies to limit the reimbursement of the compensation costs for certain contractor employees.

Employers continue to have the discretion to compensate their employees at any level they deem appropriate. The statutory formula cap only limits how much the Government will reimburse the contractors for the services of those affected employees.

Questions concerning this memorandum may be addressed to Raymond Wong, OFPP, at 202–395–6805.

[FR Doc. 2016–05766 Filed 3–14–16; 8:45 am]

BILLING CODE P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: The National Endowment for the Humanities will hold twenty-three meetings of the Humanities Panel, a federal advisory committee, during April, 2016. The purpose of the meetings is for panel review, discussion, evaluation, and recommendation of applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965.

DATES: See **SUPPLEMENTARY INFORMATION** section for meeting dates.

ADDRESSES: The meetings will be held at Constitution Center at 400 7th Street SW., Washington, DC 20506. See **SUPPLEMENTARY INFORMATION** for meeting room numbers.

FOR FURTHER INFORMATION CONTACT: Elizabeth Voyatzis, Committee Management Officer, 400 7th Street SW., Room 4060, Washington, DC 20506; (202) 606–8322; *evoyatzis@neh.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given of the following meetings:

1. DATE: April 1, 2016.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: Virtual Panel.
This meeting will discuss applications for Next Generation Ph.D.: Planning Grants, submitted to the Office of Challenge Grants.

2. DATE: April 4, 2016.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: Virtual Panel.
This meeting will discuss applications for Next Generation Ph.D.: Planning Grants, submitted to the Office of Challenge Grants.

3. DATE: April 5, 2016.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: 4002.
This meeting will discuss applications on the subjects of World Art and Culture, for Museums, Libraries and Cultural Organizations: Planning Grants, submitted to the Division of Public Programs.

4. DATE: April 6, 2016.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: Via Conference Call.
This meeting will discuss applications on the subjects of U.S. History and Culture, for Museums, Libraries and Cultural Organizations: Planning Grants, submitted to the Division of Public Programs

5. DATE: April 6, 2016.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: Virtual Panel.
This meeting will discuss applications for Next Generation Ph.D.: Planning Grants, submitted to the Office of Challenge Grants.

6. DATE: April 7, 2016.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: 4002.
This meeting will discuss applications on the subjects of History

and Culture, for Media Projects: Production Grants, submitted to the Division of Public Programs.

7. DATE: April 7, 2016.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: Virtual Panel.
This meeting will discuss applications for the National Digital Newspaper Program, submitted to the Division of Preservation and Access.

8. DATE: April 11, 2016.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: Via Conference Call.
This meeting will discuss applications on the subject of Cultural History, for Media Projects: Development Grants, submitted to the Division of Public Programs.

9. DATE: April 12, 2016.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: Virtual Panel.
This meeting will discuss applications for the Seminars for School Teachers grant program, submitted to the Division of Education Programs.

10. DATE: April 13, 2016.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: Virtual Panel.
This meeting will discuss applications for the Institutes for School Teachers grant program, submitted to the Division of Education Programs.

11. DATE: April 14, 2016.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: Virtual Panel.
This meeting will discuss applications for the Seminars for School Teachers grant program, submitted to the Division of Education Programs.

12. DATE: April 15, 2016.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: Virtual Panel.
This meeting will discuss applications for the Institutes for School Teachers grant program, submitted to the Division of Education Programs.

13. DATE: April 18, 2016.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: Virtual Panel.
This meeting will discuss applications for the Landmarks of American History and Culture: Workshops for School Teachers grant program, submitted to the Division of Education Programs.

14. DATE: April 19, 2016.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: Virtual Panel.
This meeting will discuss applications for the Landmarks of American History and Culture: Workshops for School Teachers grant program, submitted to the Division of Education Programs.

15. DATE: April 19, 2016.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: Via Conference Call.
This meeting will discuss applications on the subject of History, for Media Projects: Development Grants, submitted to the Division of Public Programs.

16. DATE: April 20, 2016.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: Via Conference Call.
This meeting will discuss applications on the subjects of History and Culture for Museums, Libraries, and Cultural Organizations: Planning Grants, submitted to the Division of Public Programs.

17. DATE: April 20, 2016.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: Virtual Panel.
This meeting will discuss applications for the Landmarks of American History and Culture: Workshops for School Teachers grant program, submitted to the Division of Education Programs.

18. DATE: April 21, 2016.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: Virtual Panel.
This meeting will discuss applications for the Landmarks of American History and Culture: Workshops for School Teachers grant program, submitted to the Division of Education Programs.

19. DATE: April 25, 2016.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: 2002.
This meeting will discuss applications on the subject of Geospatial and Visualization, for Digital Humanities Implementation Grants, submitted to the Office of Digital Humanities.

20. DATE: April 25, 2016.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: Via Conference Call.
This meeting will discuss applications on the subjects of U.S. History and Culture, for Museums, Libraries, and Cultural Organizations: Planning Grants, submitted to the Division of Public Programs.

21. DATE: April 26, 2016.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: P002.
This meeting will discuss applications for the Institutes for College and University Teachers grant program, submitted to the Division of Education Programs.

22. DATE: April 27, 2016.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: P002.
This meeting will discuss applications for the Institutes for College and University Teachers grant program, submitted to the Division of Education Programs.

23. DATE: April 27, 2016.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: 2002.
This meeting will discuss applications on the subject of Research, for Digital Humanities Implementation Grants, submitted to the Office of Digital Humanities.

24. DATE: April 28, 2016.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: 2002.
This meeting will discuss applications on the subjects of Public Programs and Education, for Digital Humanities Implementation Grants, submitted to the Office of Digital Humanities.

25. DATE: April 28, 2016.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: P002.
This meeting will discuss applications for the Seminars for College Teachers grant program, submitted to the Division of Education Programs.

26. DATE: April 29, 2016.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: 2002.
This meeting will discuss applications on the subjects of Scholarly Communications and Collections, for Digital Humanities Implementation Grants, submitted to the Office of Digital Humanities.

Because these meetings will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, the meetings will be closed to the public pursuant to sections 552b(c)(4) and 552b(c)(6) of Title 5, U.S.C., as amended. I have made this determination pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings dated July 19, 1993.

Dated: March 10, 2016.

Elizabeth Voyatzis,

Committee Management Officer.

[FR Doc. 2016–05805 Filed 3–14–16; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Notice; Submission for OMB Review; Comment Request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. This is the second notice for public comment; the first was published in the **Federal Register** at 80 FR 30738, and no comments were received. NSF is

forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. The full submission may be found at: *http://www.reginfo.gov/public/do/PRAMain.* Comments regarding (a) 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; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of 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 should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725—17th Street NW. Room 10235, Washington, DC 20503, and to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Room 1265, Arlington, VA 22230, or by email to *splimpto@nsf.gov.* Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling 703–292–7556.

NSF 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.

Under OMB regulations, the agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB.

ADDRESSES: Submit written comments to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Room 1265, Arlington, VA 22230, or by email to *splimpto@nsf.gov.*

FOR FURTHER INFORMATION CONTACT: Call or write, Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Room 1265, Arlington, VA 22230, or by email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

SUPPLEMENTARY INFORMATION:

Title of Collection: Survey of Grantees of Science, Engineering and Research for Sustainability (SEES) Portfolio of Programs

OMB Approval Number: 3145–NEW7555–01–P

National Science Foundation Agency Information Collection Activities; Comment Request; NSF's Science, Engineering, and Education for Sustainability (SEES) Portfolio of Programs Survey; Proposed Information Collection Request.

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request establishment and clearance of this collection. In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting that OMB approve clearance of this collection for no longer than three years.

A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

DATES: Submit comments before May 16, 2016.

ADDRESSES: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 1265, Arlington, Virginia 22230 or send email to *splimpto@nsf.gov.* Copies of the submission may be obtained by calling (703) 292–7556.

Instructions: Please submit one copy of your comments by only one method. All submissions received must include the agency name and collection name identified above for this information collection. Commenters are strongly encouraged to transmit their comments electronically via email. Comments, including any personal information provided become a matter of public record. They will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 1265, Arlington, Virginia 22230 or send email to *splimpto@nsf.gov.* Copies of the submission may be obtained by calling (703) 292–7556. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Title of Collection: Survey of Grantees of SEES and Comparable Non-SEES Programs

OMB Number: 3145–NEW

Type of request: Intent to seek approval for ICR

Abstract

In 2010, NSF established the SEES Portfolio as a multi-year effort to coordinate Agency research and education activities related to the environment, energy and sustainability. The overarching goals of the SEES portfolio are to 1) support interdisciplinary research and education that can facilitate the move towards global sustainability; 2) build linkages among existing projects and partners and add new participants in the sustainability research enterprise; and 3) develop a workforce trained in the interdisciplinary scholarship needed to understand and address the complex issues of sustainability.

NSF is supporting an evaluation of the SEES portfolio to determine the extent to which it has achieved its program- and portfolio-level goals. Specifically, the evaluation seeks to measure the output and outcomes of SEES in terms of the development of new knowledge and concepts that advance the overarching goal of a sustainable human future, new and productive connections made between researchers in a range of disciplines, and the development of a workforce capable of meeting sustainability challenges.

This comment request relates to a proposed *survey of NSF grant recipients.* The survey respondents are principal investigators (PIs) in NSF-funded SEES and comparable non-SEES projects. The survey will collect information on respondents' career pathways, NSF grant activities, and the development of interdisciplinary networks of scholars among researchers.

I. Review Focus

NSF is interested in comments on the practical utility of the survey in view of the project goals and the study approach, the burden on respondents and potential ways to minimize it.

Comments submitted in response to this Notice will be summarized and included in the request for Office of Management and Budget approval of the ICR; they will also become a matter of public record.

II. Current Actions

Affected Public: Grant recipients of NSF SEES and comparable non-SEES Programs

Total Respondents: 950

Frequency: One-time collection

Total responses: 760

Average Time per response: 45 minutes

Estimated Total Burden Hours: 576.3 hours

Dated: March 9, 2016.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2016–05760 Filed 3–14–16; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0050]

Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

AGENCY: Nuclear Regulatory Commission.

ACTION: Biweekly notice.

SUMMARY: Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued, and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued, from February 13, 2016, to February 29, 2016. The last biweekly notice was published on March 1, 2016.

DATES: Comments must be filed by April 14, 2016. A request for a hearing must be filed by May 16, 2016.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0050. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.*
- *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: OWFN–12–H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Lynn Ronewicz, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–1927, email: *Lynn.Ronewicz@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2016–0050 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0050.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents''* and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section of this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2016–0050, facility name, unit number(s), application date, and subject in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov*, as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in § 50.92 of title 10 of the *Code of Federal Regulations* (10 CFR), this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the

subject facility operating license or combined license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that person's admitted contentions, including the opportunity to present evidence and to submit a cross-examination plan for cross-examination of witnesses, consistent with NRC regulations, policies and procedures.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i)–(iii).

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission by May 16, 2016. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions for leave to intervene set forth in this section, except that under § 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may also have the opportunity to participate under 10 CFR 2.315(c).

If a hearing is granted, any person who does not wish, or is not qualified, to become a party to the proceeding may, in the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of position on the issues, but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission by May 16, 2016.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at

hearing.docket@nrc.gov, or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html*, by email to *MSHD.Resource@nrc.gov*, or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/*, unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, in some instances, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i)–(iii).

For further details with respect to these license amendment applications, see the application for amendment which is available for public inspection in ADAMS and at the NRC's PDR. For additional direction on accessing information related to this document, see the ''Obtaining Information and Submitting Comments'' section of this document.

Duke Energy Carolinas, LLC, Docket Nos. 50–413 and 50–414, Catawba Nuclear Station (CNS), Units 1 and 2, York County, South Carolina

Date of amendment request: January 18, 2016. A publicly-available version is in ADAMS under Accession No. ML16026A048.

Description of amendment request: The proposed amendments would modify the Renewed Facility Operating Licenses and Technical Specifications (TS) for CNS, Units 1 and 2. Specifically, the proposed amendments request to revise TS 5.5.2, ''Containment Leakage Rate Testing Program,'' to allow an increase in the existing Type A Integrated Leakage Rate Test (ILRT) program test interval from 10 years to 15

years in accordance with Nuclear Energy Institute (NEI) Topical Report NE1 94–01, Revision 3–A, ''Industry Guideline for Implementing Performance-Based Option of 10 CFR part 50, appendix J,'' and the conditions and limitations specified in NEI 94–01, Revision 2–A; adoption of an extension of the containment isolation valve leakage testing (Type C) frequency from the 60 months currently permitted by 10 CFR part 50, appendix J, Option B, to a 75-month frequency for Type C leakage rate testing of selected components, in accordance with NEI 94–01, Revision 3–A; adoption of the use of ANSI/ANS 56.8–2002, ''Containment System Leakage Testing Requirements''; and adoption of a more conservative grace interval of 9 months for Type A, Type B, and Type C leakage tests in accordance with NEI 94–01, Revision 3–A. The proposed amendments also request the following administrative changes: Deletion of the information regarding the performance of containment visual inspections as required by Regulatory Position C.3, as the containment inspections are addressed in TS Surveillance Requirement 3.6.1.1, deletion of the information regarding the performance of the next CNS, Unit 1, Type A test no later than November 13, 2015, and the next CNS, Unit 2, Type A test no later than February 6, 2008, as both Type A tests have already occurred.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below with NRC edits in square brackets:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed amendment to the Technical Specifications (TS) involves the extension of the Catawba Nuclear Station (CNS) Type A containment integrated leak rate test interval to 15 years and the extension of the Type C test interval to 75 months for selected components. The current Type A test interval of 120 months (10 years) would be extended on a permanent basis to no longer than 15 years from the last Type A test. The current Type C test interval of 60 months for selected components would be extended on a performance basis to no longer than 75 months. Extensions of up to nine months (total maximum interval of 84 months for Type C tests) are permissible only for non-routine emergent conditions. The proposed extension does not involve either a physical change to the plant or a change in the manner in which the plant is operated or controlled. The containment is designed to provide an essentially leak tight barrier against the uncontrolled release of radioactivity to the environment for postulated accidents. The containment and the testing requirements invoked to periodically demonstrate the integrity of the containment exist to ensure the plant's ability to mitigate the consequences of an accident, and do not involve the prevention or identification of any precursors of an accident. The change in dose risk for changing the Type A test frequency from three-per-ten years to once-per-fifteen years, measured, as an increase to the total integrated plant risk for those accident sequences influenced by Type A testing, is 0.026 person-rem/year. EPRI Report No. 1009325, Revision 2–A states that a very small population dose is defined as an increase of [less than or equal to] 1.0 person-rem per year, or [less than or equal to] 1% of the total population dose, whichever is less restrictive for the risk impact assessment of the extended ILRT intervals. Therefore, this proposed extension does not involve a significant increase in the probability of an accident previously evaluated.

As documented in NUREG–1493, Type B and C tests have identified a very large percentage of containment leakage paths, and the percentage of containment leakage paths that are detected only by Type A testing is very small. The CNS Type A test history supports this conclusion.

The integrity of the containment is subject to two types of failure mechanisms that can be categorized as: (1) Activity based, and; (2) time based. Activity based failure mechanisms are defined as degradation due to system and/or component modifications or maintenance. Local leak rate test requirements and administrative controls such as configuration management and procedural requirements for system restoration ensure that containment integrity is not degraded by plant modifications or maintenance activities. The design and construction requirements of the containment combined with the containment inspections performed in accordance with ASME Section Xl, the Maintenance Rule, and TS requirements serve to provide a high degree of assurance that the containment would not degrade in a manner that is detectable only by a Type A test. Based on the above, the proposed extensions do not significantly increase the consequences of an accident previously evaluated.

The proposed amendment also deletes an exception previously granted to allow one-time extensions of the Unit 1 and Unit 2 ILRT test frequency for CNS. This exception was for activities that have already taken place; therefore, their deletion is solely an administrative action that has no effect on any component and no impact on how the units are operated.

Therefore, the proposed change does not result in a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed amendment to the TS involves the extension of the CNS Type A containment integrated leak rate test interval to 15 years and the extension of the Type C test interval to 75 months for selected components.

The current Type A test interval of 120 months (10 years) would be extended on a permanent basis to no longer than 15 years from the last Type A test. The current Type C test interval of 60 months for selected components would be extended on a performance basis to no longer than 75 months. The containment and the testing requirements to periodically demonstrate the integrity of the containment exist to ensure the plant's ability to mitigate the consequences of an accident do not involve any accident precursors or initiators. The proposed change does not involve a physical change to the plant (*i.e.*, no new or different type of equipment will be installed) or a change to the manner in which the plant is operated or controlled.

The proposed amendment also deletes an exception previously granted to allow one-time extensions of the Unit 1 and Unit 2 ILRT test frequency for CNS. This exception was for activities that have already taken; therefore, their deletion is solely an administrative action that does not result in any change in how the units are operated.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in the margin of safety?

Response: No.

The proposed amendment to TS 5.5.2 involves the extension of the CNS Type A containment integrated leak rate test interval to 15 years and the extension of the Type C test interval to 75 months for selected components. The current Type A test interval of 120 months (10 years) would be extended on a permanent basis to no longer than 15 years from the last Type A test. The current Type C test interval of 60 months for selected components would be extended on a performance basis to no longer than 75 months. This amendment does not alter the manner in which safety limits, limiting safety system set points, or limiting conditions for operation are determined. The specific requirements and conditions of the TS Containment Leak Rate Testing Program exist to ensure that the degree of containment structural integrity and leak tightness that is considered in the plant safety analysis is maintained. The overall containment leak rate limit specified by TS is maintained.

The proposed change involves only the extension of the interval between Type A containment leak rate tests, and Type C tests for CNS. The proposed surveillance interval extension is bounded by the 15-year ILRT interval, and the 75-month Type C test interval currently authorized within NEI 94–01, Revision 3–A. Industry experience supports the conclusion that Type B and C testing detects a large percentage of containment leakage paths and that the percentage of containment leakage paths that are detected only by Type A testing is small. The containment inspections performed in accordance with ASME Section Xl, TS and the Maintenance Rule serve to provide a high

degree of assurance that the containment would not degrade in a manner that is detectable only by Type A testing. The combination of these factors ensures that the margin of safety in the plant safety analysis is maintained. The design, operation, testing methods and acceptance criteria for Type A, B, and C containment leakage tests specified in applicable codes and standards would continue to be met, with the acceptance of this proposed change, since these are not affected by changes to the Type A, and Type C test intervals.

The proposed amendment also deletes an exception previously granted to allow one-time extensions of the Unit 1 and Unit 2 ILRT test frequency for CNS. This exception was for activities that have already taken place; therefore, their deletion is solely an administrative action and does not change how the units are operated and maintained. Thus, there is no reduction in any margin of safety.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lara S. Nichols, Associate General Counsel, Duke Energy Corporation, 526 South Church Street–EC07H, Charlotte, NC 28202.

NRC Branch Chief: Michael T. Markley.

Duke Energy Progress, Inc., Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of amendment request: November 19, 2015. A publicly-available version is in ADAMS under Accession No. ML15323A085.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TSs) to allow the extension of the Type A containment test interval to 15 years and the extension of the Type B and Type C test intervals for selected components to 120 months and 75 months, respectively. The proposed amendment also deletes from the TSs an already implemented one-time extension of the Type A test frequency.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed amendment to the Technical Specifications (TS) involves the extension of the H. B. Robinson Steam Electric Plant Unit No. 2 (HBRSEP2) Type A containment test interval to 15 years, the extension of the Type B test intervals to 120 months for selected components, and the extension of the Type C test interval to 75 months for selected components. The current Type A test interval of 120 months (10 years) would be extended on a permanent basis to no longer than 15 years from the last Type A test. The current Type B test interval of each reactor shutdown for refueling but in no case at intervals greater than 2 years would be extended on a performance basis to no longer than 120 months. The current Type C test interval of each reactor shutdown for refueling but in no case at intervals greater than 2 years would be extended on a performance basis to no longer than 75 months. Extensions of up to nine months (total maximum interval of 84 months for Type C tests) are permissible only for non-routine emergent conditions. The proposed extensions do not involve either a physical change to the plant or a change in the manner in which the plant is operated or controlled. The containment is designed to provide an essentially leak tight barrier against the uncontrolled release of radioactivity to the environment for postulated accidents. The containment and the testing requirements invoked to periodically demonstrate the integrity of the containment exist to ensure the plant's ability to mitigate the consequences of an accident, and do not involve the prevention or identification of any precursors of an accident. The change in dose risk for changing the Type A test frequency from three-per-ten years to once-per-fifteen years, measured, as an increase to the total integrated plant risk for those accident sequences influenced by Type A testing, is 0.020 person-rem [roentgen equivalent man]/year. The Electric Power Research Institute (EPRI) Report No. 1009325, Revision 2–A, states that a very small population dose is defined as an increase of ≤1.0 person-rem per year, or ≤1% of the total population dose, whichever is less restrictive for the risk impact assessment of the extended integrated leak rate test (ILRT) intervals. Therefore, this proposed extension does not involve a significant increase in the probability of an accident previously evaluated.

As documented in NUREG–1493, Type B and C tests have identified a very large percentage of containment leakage paths, and the percentage of containment leakage paths that are detected only by Type A testing is very small. The HBRSEP2 Type A test history supports this conclusion.

The integrity of the containment is subject to two types of failure mechanisms that can be categorized as: (1) Activity based, and (2) time based. Activity based failure mechanisms are defined as degradation due to system and/or component modifications or maintenance. Local leak rate test requirements and administrative controls such as configuration management and procedural requirements for system restoration ensure that containment integrity is not degraded by plant modifications or maintenance activities. The design and construction requirements of the containment combined with the containment inspections performed in accordance with the American Society of Mechanical Engineers (ASME) Section XI, the Maintenance Rule, and TS requirements serve to provide a high degree of assurance that the containment would not degrade in a manner that is detectable only by a Type A test. Based on the above, the proposed extensions do not significantly increase the consequences of an accident previously evaluated.

The proposed amendment also deletes an exception previously granted to allow one-time extension of the ILRT test frequency for HBRSEP2. This exception was for an activity that has already taken place so the deletion is solely an administrative action that has no effect on any component and no impact on how the unit is operated.

Therefore, the proposed change does not result in a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed amendment to the TS involves the extension of the HBRSEP2 Type A containment test interval to 15 years, the Type B test interval to 120 months for selected components and the extension of the Type C test interval to 75 months for selected components. The containment and the testing requirements to periodically demonstrate the integrity of the containment exist to ensure the plant's ability to mitigate the consequences of an accident do not involve any accident precursors or initiators. The proposed change does not involve a physical change to the plant (*i.e.*, no new or different type of equipment will be installed) or a change to the manner in which the plant is operated or controlled.

The proposed amendment also deletes an exception previously granted to allow one-time extension of the ILRT test frequency for HBRSEP2. This exception was for an activity that has already taken place so the deletion is solely an administrative action that has no effect on any component and no impact on how the unit is operated.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed amendment to TS 5.5.16 involves the extension of the HBRSEP2 Type A containment test interval to 15 years, the Type B test interval to 120 months for selected components and the extension of the Type C test interval to 75 months for selected components. This amendment does not alter the manner in which safety limits, limiting safety system set points, or limiting conditions for operation are determined. The specific requirements and conditions of the

TS Containment Leak Rate Testing Program exist to ensure that the degree of containment structural integrity and leak tightness that is considered in the plant safety analysis is maintained. The overall containment leak rate limit specified by TS is maintained.

The proposed change involves only the extension of the interval between Type A containment leak rate tests, Type B tests and Type C tests for HBRSEP2. The proposed surveillance interval extension is bounded by the 15-year ILRT interval, the 120-month Type B interval and the 75-month Type C test interval currently authorized within NEI 94–01, Revision 3–A. Industry experience supports the conclusion that Types B and C testing detects a large percentage of containment leakage paths and that the percentage of containment leakage paths that are detected only by Type A testing is small. The containment inspections performed in accordance with ASME Section XI, TS and the Maintenance Rule serve to provide a high degree of assurance that the containment would not degrade in a manner that is detectable only by Type A testing. The combination of these factors ensures that the margin of safety in the plant safety analysis is maintained. The design, operation, testing methods and acceptance criteria for Types A, B, and C containment leakage tests specified in applicable codes and standards would continue to be met, with the acceptance of this proposed change, since these are not affected by changes to the Type A, Type B and Type C test intervals.

The proposed amendment also deletes an exception previously granted to allow one-time extension of the ILRT test frequency for HBRSEP2. This exception was for an activity that has already taken place so the deletion is solely an administrative action that has no effect on any component and no impact on how the unit is operated.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lara S. Nichols, Deputy General Counsel, Duke Energy Corporation, 550 South Tyron Street, Mail Code DEC45A, Charlotte, NC 28202.

NRC Branch Chief: Benjamin G. Beasley.

Exelon Generation Company, LLC, Docket Nos. 50–352 and 50–353, Limerick Generating Station (LGS), Units 1 and 2, Montgomery County, Pennsylvania

Date of amendment request: January 15, 2016. A publicly-available version is in ADAMS under Accession No. ML16015A316.

Description of amendment request: The amendments would reduce the reactor vessel steam dome pressure associated with the Technical Specification (TS) Safety Limits (SLs) specified in TS 2.1.1 and TS 2.1.2. The amendments would also revise the setpoint and allowable value for the main steam line low pressure isolation function in TS Table 3.3.2–2. The proposed changes address a 10 CFR part 21 issue concerning the potential to violate the SLs limits during a pressure regulator failure maximum demand (open) transient.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated because decreasing the reactor vessel steam dome pressure in TS Safety Limits 2.1.1 and 2.1.2 for reactor thermal power ranges and increasing the trip setpoint and allowable value for the main steam line low pressure isolation effectively expands the validity range for GEXL critical power correlation and the calculation of the minimum critical power ratio. The critical power ratio rises during the pressure reduction following the scram that terminates the Pressure Regulator Failure Maximum Demand (Open) (PRFO) transient. The reduction in the reactor vessel steam dome pressure value in the SL and the increase in the trip setpoint and the allowable value for the main steam line low pressure isolation provides adequate margin to accommodate the pressure reduction during the PRFO transient within the revised TS limit.

The proposed changes do not alter the use of the analytical methods used to determine the safety limits that have been previously reviewed and approved by the NRC. The proposed changes are in accordance with an NRC approved critical power correlation methodology and do not adversely affect accident initiators or precursors.

The proposed changes do not alter or prevent the ability of structures, systems, and components from performing their intended function to mitigate the consequences of an initiating event within the applicable acceptance limits. The proposed changes are consistent with the safety analysis and resultant consequences.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed reduction in the reactor vessel steam dome pressure value in the safety limit in conjunction with the increase in the trip setpoint and the allowable value for the main steam line low pressure isolation reflects a wider range of applicability for the GEXL critical power correlation which is approved by the NRC for both GE14 and GNF2 fuel types in [the] LGS reactor cores.

In addition, no new failure modes are being introduced. There are no changes in the method by which any plant systems perform a safety function. No new accident scenarios, failure mechanisms, or limiting single failures are introduced as a result of the proposed changes.

The proposed changes do not introduce any new accident precursors, nor do they involve any changes in the methods governing normal plant operation. The proposed changes do not alter the outcome of the safety analysis.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

Response: No.

The margin of safety is established through the design of the plant structures, systems, and components, and through the parameters for safe operation and setpoints for the actuation of equipment relied upon to respond to transients and design basis accidents. Evaluation of the 10 CFR part 21 condition by General Electric determined that, since the critical power ratio improves during the PRFO transient, there is no impact on the fuel safety margin, and therefore, there is no challenge to fuel cladding integrity. The proposed changes do not change the requirements governing operation or availability of safety equipment assumed to operate to preserve the margin of safety.

The proposed changes are consistent with the applicable NRC approved critical power correlation for the fuel designs in use at LGS. The proposed changes do not alter the manner in which the safety limits are determined.

The reduction in value of the reactor vessel steam dome pressure safety limit and the increase in the trip setpoint and allowable value for the main steam line low pressure isolation provides adequate margin to accommodate the pressure reduction during the PRFO transient within the revised TS limit.

Therefore, the proposed changes do not involve a significant reduction in any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Tamra Domeyer, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

NRC Branch Chief: Douglas A. Broaddus.

FirstEnergy Nuclear Operating Company, et al., Docket No. 50–346, Davis-Besse Nuclear Power Station (DBNPS), Unit No. 1, Ottawa County, Ohio

Date of amendment request: February 17, 2016. A publicly-available version is in ADAMS under Accession No. ML16049A513.

Description of amendment request: The licensee proposes to change the emergency plan for DBNPS, Unit No. 1, by revising the emergency action level (EAL) scheme based on the Nuclear Energy institute's (NEI's) guidance in NEI 99–01, Revision 6, ''Development of Emergency Action Levels for Non-Passive Reactors.'' The NEI 99–01, Revision 6, was endorsed by the NRC by letter dated March 28, 2013 (ADAMS Accession No. ML12346A463).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes to DBNPS's EAL scheme to adopt the NRC-endorsed guidance in NEI 99–01, Revision 6, do not involve any physical changes to plant systems or equipment. The proposed changes do not alter any of the requirements of the technical specifications. The proposed changes do not modify any plant equipment and do not impact any failure modes that could lead to an accident. Additionally, the proposed changes do not impact the ability of structures, systems, or components (SSCs) to perform their intended safety functions in mitigating the consequences of an initiating event within the assumed acceptance limits.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes to DBNPS's EAL scheme to adopt the NRC-endorsed guidance in NEI 99–01, Revision 6, do not involve any physical changes to plant systems or equipment. The proposed changes do not involve the addition of any new plant equipment. The proposed changes will not alter the design configuration, or method of operation of plant equipment beyond its normal functional capabilities. DBNPS functions will continue to be performed as required. The proposed changes do not create any new credible failure mechanisms, malfunctions, or accident initiators.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes to DBNPS's EAL scheme to adopt the NRC-endorsed guidance in NEI 99–01, Revision 6, do not involve any physical changes to plant systems or equipment. Margins of safety are unaffected by the proposed changes. There are no changes being made to safety analysis assumptions, safety limits, or limiting safety system settings that would adversely affect plant safety as a result of the proposed EAL scheme change. The proposed change does not affect the technical specifications. There are no changes to environmental conditions of any of the SSC or the manner in which any SSC is operated. The applicable requirements of 10 CFR 50.47 and 10 CFR part 50, appendix E will continue to be met.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: David W. Jenkins, Attorney, FirstEnergy Corporation, Mail Stop A–GO–15, 76 South Main Street, Akron, OH 44308.

Acting NRC Branch Chief: Justin C. Poole.

Indiana Michigan Power Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Units 1 and 2, Berrien County, Michigan

Date of amendment request: January 29, 2016. A publicly-available version is in ADAMS under Accession No. ML16034A032.

Description of amendment request: The proposed amendment would modify technical specification (TS) requirements to address Generic Letter 2008–01, ''Managing Gas Accumulation in Emergency Core Cooling, Decay Heat Removal, and Containment Spray Systems,'' as described in the Technical Specification Task Force (TSTF) Traveler TSTF–523, Revision 2, ''Generic Letter 2008–01, Managing Gas Accumulation.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change revises or adds SRs [Surveillance Requirements] that require verification that the ECCS [Emergency Core Cooling System], RHR [Residual Heat Removal] System, and the Containment Spray (CTS) System are not rendered inoperable due to accumulated gas and to provide allowances which permit performance of the revised verification. Gas accumulation in the subject systems is not an initiator of any accident previously evaluated. As a result, the probability of any accident previously evaluated is not significantly increased. The proposed SRs ensure that the subject systems continue to be capable to perform their assumed safety function and are not rendered inoperable due to gas accumulation. Thus, the consequences of any accident previously evaluated are not significantly increased.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change revises or adds SRs that require verification that the ECCS, the RHR System, and the CTS System are not rendered inoperable due to accumulated gas and to provide allowances which permit performance of the revised verification. The proposed change does not involve a physical alteration of the plant (*i.e.*, no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. In addition, the proposed change does not impose any new or different requirements that could initiate an accident. The proposed change does not alter assumptions made in the safety analysis and is consistent with the safety analysis assumptions.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change revises or adds SRs that require verification that the ECCS, the RHR System, and the CTS System are not rendered inoperable due to accumulated gas and to provide allowances which permit performance of the revised verification. The proposed change adds new requirements to manage gas accumulation in order to ensure the subject systems are capable of performing their assumed safety functions. The proposed SRs are more comprehensive than the current SRs and will ensure that the assumptions of the safety analysis are protected. The proposed change does not adversely affect

any current plant safety margins or the reliability of the equipment assumed in the safety analysis. Therefore, there are no changes being made to any safety analysis assumptions, safety limits or limiting safety system settings that would adversely affect plant safety as a result of the proposed change.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Robert B. Haemer, Senior Nuclear Counsel, One Cook Place, Bridgman, MI 49106.

NRC Branch Chief: David J. Wrona.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment request: January 21, 2106. A publicly-available version is in ADAMS under Accession No. ML16021A067.

Description of amendment request: The amendments would revise or add Surveillance Requirements to verify that the system locations susceptible to gas accumulation are sufficiently filled with water and to provide allowances, which permit performance of the verification. The amendments would revise Technical Specification (TS) 3.4.6, ''RCS [Reactor Coolant System] Loops—MODE 4''; TS 3.4.7, ''RCS Loops—MODE 5, Loops Filled''; TS 3.4.8, ''RCS Loops—MODE 5, Loops Not Filled''; TS 3.5.2, ''ECCS [Emergency Core Cooling System]—Operating''; TS 3.6.6, ''Containment Spray and Cooling Systems''; TS 3.9.5, ''RHR [Residual Heat Removal] and Coolant Circulation—High Water Level''; and TS 3.9.6, ''RHR and Containment Circulation—Low Water Level.'' The proposed amendments would modify TS requirements to address Generic Letter 2008–01, ''Managing Gas Accumulation in Emergency Core Cooling, Decay Heat Removal, and Containment Spray Systems,'' as described in Technical Specification Task Force TSTF–523, Revision 2, ''Generic Letter 2008–01, Managing Gas Accumulation.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change revises or adds Surveillance Requirement(s) (SRs) that require verification that the Emergency Core Cooling System (ECCS), the Residual Heat Removal (RHR) System, and the Containment Spray (CS) System are not rendered inoperable due to accumulated gas and to provide allowances which permit performance of the revised verification. Gas accumulation in the subject systems is not an initiator of any accident previously evaluated. As a result, the probability of any accident previously evaluated is not significantly increased. The proposed SRs ensure that the subject systems continue to be capable to perform their assumed safety function and are not rendered inoperable due to gas accumulation. Thus, the consequences of any accident previously evaluated are not significantly increased.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different accident from any accident previously evaluated?

Response: No.

The proposed change revises or adds SRs that require verification that the ECCS, RHR System, and CS System are not rendered inoperable due to accumulated gas and to provide allowances which permit performance of the revised verification. The proposed change does not involve a physical alteration of the plant (*i.e.,* no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. In addition, the proposed change does not impose any new or different requirements that could initiate an accident. The proposed change does not alter assumptions made in the safety analysis and is consistent with the safety analysis assumptions.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change revises or adds SRs that require verification that the ECCS, the RHR System, and the CS System are not rendered inoperable due to accumulated gas, and to provide allowances which permit performance of the revised verification. The proposed change adds new requirements to manage gas accumulation in order to ensure the subject systems are capable of performing their assumed safety functions. The proposed SRs are more comprehensive than the current SRs, and will ensure that the assumptions of the safety analysis are protected. The proposed change does not adversely affect any current plant safety margins or the reliability of the equipment assumed in the safety analysis. Therefore, there are no changes being made to any safety analysis assumptions, safety limits, or limiting safety system settings that would adversely affect plant safety as a result of the proposed change.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: Jennifer Post, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, CA 94120.

NRC Branch Chief: Robert J. Pascarelli.

South Carolina Electric & Gas Company, Docket Nos. 52–027 and 52–028, Virgil C. Summer Nuclear Station (VCSNS) Units 2 and 3, Fairfield County, South Carolina

Date of amendment request: January 19, 2016. A publicly-available version is in ADAMS under Accession No. ML16019A403.

Description of amendment request: The requested amendment proposes to depart from Tier 2* information in the Updated Final Safety Analysis Report (which includes the plant-specific design control document Tier 2 information) related to the construction methods used for the composite floors and roof of the auxiliary building.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The design functions of the nuclear island structures are to provide support, protection, and separation for the seismic Category I mechanical and electrical equipment located in the nuclear island. The nuclear island structures are structurally designed to meet seismic Category I requirements as defined in Regulatory Guide 1.29.

The use of ACI 349 and AISC N690 provides criteria for the design, qualification, fabrication, and inspection of composite steel beam floors and roof in the auxiliary building. These structures continue to meet the applicable portions of ACI 349 and AISC N690. The proposed change does not have an adverse impact on the response of the nuclear island structures to safe shutdown earthquake ground motions or loads due to

anticipated transients or postulated accident conditions. The change does not impact the support, design, or operation of mechanical and fluid systems. There is no change to plant systems or the response of systems to postulated accident conditions. There is no change to the predicted radioactive releases due to normal operation or postulated accident conditions. The plant response to previously evaluated accidents or external events is not adversely affected, nor does the change described create any new accident precursors.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change revises the description of the construction of composite steel beam floors and roof in the auxiliary building. The proposed change does not change the design function, support, design, or operation of mechanical and fluid systems. The proposed change does not result in a new failure mechanism for the pertinent structures or new accident precursors. As a result, the design function of the structures is not adversely affected by the proposed change.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed change is consistent with ACI 349 and AISC N690. The design and construction of the auxiliary building floors and roof remain in conformance with the requirements in ACI 349 and AISC N690.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. Kathryn M. Sutton, Morgan, Lewis & Bockius LLC, 1111 Pennsylvania Avenue NW., Washington, DC 20004–2514.

Acting NRC Branch Chief: John McKirgan.

III. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items can be accessed as described in the ''Obtaining Information and Submitting Comments'' section of this document.

Arizona Public Service Company, et al., Docket Nos. STN 50–528, STN 50–529, and STN 50–530, Palo Verde Nuclear Generating Station, Unit Nos. 1, 2, and 3, Maricopa County, Arizona

Date of amendment request: February 27, 2015, as supplemented by letter dated January 19, 2016.

Brief description of amendments: The amendments revised Technical Specification (TS) 1.3, ''Completion Times''; TS 3.7.5, ''Auxiliary Feedwater (AFW) System''; TS 3.8.1, ''AC [Alternating Current] Sources—Operating''; and TS 3.8.9, ''Distribution Systems—Operating''; to remove the second Completion Times. The amendment also revised Example 1.3–3 in TS 1.3, ''Completion Times,'' by adding a discussion of administrative controls to combinations of conditions to ensure that the Completion Times for those conditions are not inappropriately extended.

The changes are consistent with the NRC-approved Technical Specification Task Force (TSTF) Traveler TSTF–439–A, Revision 2, ''Eliminate Second Completion Times Limiting Time From Discovery of Failure to Meet an LCO [Limiting Condition of Operation],'' dated June 20, 2005.

Date of issuance: February 19, 2016.

Effective date: As of the date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment Nos.: Unit 1—197; Unit 2—197; Unit 3—197. A publicly-available version is in ADAMS under Accession No. ML16004A013; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. NPF–41, NPF–51, and NPF–74: The amendments revised the Operating Licenses and TSs.

Date of initial notice in ***Federal Register***: May 12, 2015 (80 FR 27195). The supplement dated January 19, 2016, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 19, 2016.

No significant hazards consideration comments received: No.

Duke Energy Progress, Inc., Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of amendment request: February 19, 2015, as supplemented by letter dated November 5, 2015.

Description of amendment request: The amendments revised (1) technical specifications (TSs) by replacing AREVA Topical Report ANP–10298PA, ''ACE/ATRIUM 10XM Critical Power Correlation,'' Revision 0, March 2010, with Revision 1, March 2014, of the same topical report; and (2) Appendix B, ''Additional Conditions,'' by removing the license condition issued by Amendment Nos. 262 and 290 for Units 1 and Unit 2, respectively.

Date of issuance: February 9, 2016.

Effective date: Once approved, the Unit 1 amendment shall be implemented prior to start-up. from the 2016 Unit 1 refueling outage, and the Unit 2 amendment shall be implemented prior to start-up from the 2017 Unit 2 refueling outage.

Amendment Nos.: 269 and 297. A publicly-available version is in ADAMS under Accession No. ML16019A029;

documents related to these amendments are listed in the Safety Evaluation (SE) enclosed with the amendments.

Facility Operating License Nos. DPR–71, and DPR–62: Amendments revised the renewed facility operating licenses and TSs.

Date of initial notice in ***Federal Register***: April 28, 2015 (80 FR 23603). The supplemental letter dated November 5, 2015, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in an SE dated February 9, 2016.

No significant hazards consideration comments received: No.

Energy Northwest, Docket No. 50–397, Columbia Generating Station (CGS), Benton County, Washington

Date of amendment request: September 2, 2015.

Brief description of amendment: The amendment revised the Technical Specification (TS) requirements for unavailable barriers by adding Limiting Condition for Operation (LCO) 3.0.9. The LCO allows a delay time for entering a supported system TS, when the inoperability is solely due to an unavailable barrier, if the risk is assessed and managed. The change is consistent with NRC-approved Technical Specification Task Force (TSTF) Standard Technical Specification (STS) Change TSTF–427, Revision 2, ''Allowance for Non Technical Specification Barrier Degradation on Supported System OPERABILITY'' (ADAMS Accession No. ML061240055). The availability of this TS improvement was published in the **Federal Register** on October 3, 2006 (71 FR 58444), as part of the Consolidated Line Item Improvement Process.

Additionally, LCO 3.0.8 has been revised to replace the term ''train'' with ''division'' to be consistent with CGS's TS definition of ''OPERABLE–OPERABILITY'' and the terminology used in Section 1.3, ''Completion Times,'' of the CGS TS.

Date of issuance: February 16, 2016.

Effective date: As of its date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment No.: 237. A publicly-available version is in ADAMS under Accession No. ML16020A031; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. NPF–21: The amendment revised the Facility Operating License and TSs.

Date of initial notice in ***Federal Register***: October 27, 2015 (80 FR 65811).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 16, 2016.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., Docket Nos. 50–313 and 50–368, Arkansas Nuclear One (ANO), Units 1 and 2, Pope County, Arkansas

Date of amendment request: May 20, 2015.

Brief description of amendments: The amendments revised the full implementation date (Milestone 8) of the ANO, Units 1 and 2, Cyber Security Plan, and revised the associated physical protection license conditions for each renewed facility operating license.

Date of issuance: February 24, 2016.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: Unit 1—255; Unit 2—303. A publicly-available version is in ADAMS under Accession No. ML16027A109; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–51 and NPF–6: The amendments revised the renewed facility operating licenses.

Date of initial notice in ***Federal Register***: June 23, 2015 (80 FR 35982).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 24, 2016.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Inc., Docket No. 50–247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of amendment request: December 9, 2014, as supplemented by two letters dated May 20, 2015, and letters dated June 8, 2015, and June 29, 2015.

Brief description of amendment: The amendment revised Technical Specification (TS) 5.5.14, ''Containment Leakage Rate Testing Program,'' to extend the frequency of the containment integrated leak rate test from once every 10 years to once every 15 years on a permanent basis.

Date of issuance: February 23, 2016.

Effective date: As of the date of issuance and shall be implemented within 30 days of issuance.

Amendment No.: 283. A publicly-available version is in ADAMS under Accession No. ML15349A794; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Operating License No. DPR–26: The amendment revised the Facility Operating License and the Technical Specifications.

Date of initial notice in ***Federal Register****:* March 17, 2015 (80 FR 13905). The supplemental letters dated May 20, 2015; June 8, 2015; and June 29, 2015, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 23, 2016.

No significant hazards consideration comments received: Yes. The comments submitted by the State of New York on November 20, 2015, are addressed in the NRC staff's Safety Evaluation dated February 23, 2016.

Entergy Operations, Inc.; System Energy Resources, Inc.; South Mississippi Electric Power Association; and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1 (GGNS), Claiborne County, Mississippi

Date of amendment request: May 27, 2015, as supplemented by letters dated October 28, 2015, and December 10, 2015.

Brief description of amendment: The amendment revised the GGNS Technical Specifications (TSs) to allow for a permanent extension of the Type C leakage rate testing frequency and reduction of the Type B and Type C grace intervals that are required by GGNS TS 5.5.12, ''10 CFR part 50, appendix J, Testing Program,'' by including a reference to Nuclear Energy Institute (NEI) Topical Report, NEI 94–01, Revision 3–A, ''Industry Guideline for Implementing Performance-Based Option of 10 CFR part 50, appendix J,'' dated July 2012. In addition, the amendment changed Surveillance Requirement (SR) 3.6.5.1.1 by deleting the information regarding the performance of the last Type A test that has already occurred. This amendment

does not alter the Type A testing frequencies nor any other requirements as specified in the existing GGNS TS.

Date of issuance: February 17, 2016.

Effective date: As of the date of issuance and shall be implemented within 30 days of issuance.

Amendment No: 209. A publicly-available version is in ADAMS under Accession No. ML16011A247; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Operating License No. NPF–29: The amendment revised the Facility Operating License and TSs.

Date of initial notice in ***Federal Register****:* September 29, 2015 (80 FR 58516). The supplemental letters dated October 28, 2015, and December 10, 2015, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 17, 2016.

No significant hazards consideration comments received: No.

FirstEnergy Nuclear Operating Company, Docket No. 50–440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of amendment request: March 25, 2014, as supplemented by letters dated October 7, 2014, and August 24, 2015.

Brief description of amendment: The amendment modifies the Technical Specifications (TSs) by relocating certain surveillance frequencies to a licensee-controlled program, the Surveillance Frequency Control Program, using probabilistic risk guidelines contained in NRC-approved Nuclear Energy Institute (NEI) 04–10, Revision 1, ''Risk-Informed Technical Specifications Initiative 5b, Risk-Informed Method for Control of Surveillance Frequencies.'' The changes are consistent with the approved Technical Specification Task Force (TSTF) Traveler TSTF–425, Revision 3, ''Relocate Surveillance Frequencies to Licensee Control-RITSTF Initiative 5b.''

Date of issuance: February 23, 2016.

Effective date: As of the date of issuance and shall be implemented within 120 days of issuance.

Amendment No.: 171. A publicly-available version is in ADAMS under Accession No. ML15307A349; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Operating License No. NPF–58: Amendment revised the Facility Operating License and TSs.

Date of initial notice in ***Federal Register****:* September 16, 2014 (79 FR 55512). The supplemental letters dated October 7, 2014, and August 24, 2015, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 23, 2016.

No significant hazards consideration comments received: No.

Florida Power & Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Nuclear Generating Unit Nos. 3 and 4, Miami-Dade County, Florida

Date of amendment request: October 12, 2015.

Brief description of amendments: The amendments revised the Technical Specifications (TSs) related to facility staff qualifications for licensed operators.

Date of issuance: February 25, 2016.

Effective date: As of the date of issuance and shall be implemented within 90 days of issuance.

Amendment Nos: 268 and 263. A publicly-available version is in ADAMS under Accession No. ML16008B072; documents related to these amendments are listed in the Safety Evaluation (SE) enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–31 and DPR–41: Amendments revised the Renewed Facility Operating Licenses and TSs.

Date of initial notice in ***Federal Register****:* December 22, 2015 (80 FR 79620).

The Commission's related evaluation of the amendments is contained in an SE dated February 25, 2016.

No significant hazards consideration comments received: No.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: August 20, 2015, as supplemented by letter dated January 27, 2016.

Brief description of amendment: The amendment made administrative changes to update personnel and committee titles in the Technical Specifications (TSs), deleted outdated or completed additional actions contained in Appendix B, Additional Conditions, of the license, and relocated the definition of Process Control Program from the TSs to the Updated Safety Analysis Report.

Date of issuance: February 23, 2016.

Effective date: As of the date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment No.: 286. A publicly-available version is in ADAMS under Accession No. ML15307A013; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. DPR–40: The amendment revised the license, TSs, and Appendix B to the license.

Date of initial notice in ***Federal Register****:* October 13, 2015 (80 FR 61486). The supplemental letter dated January 27, 2016, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 23, 2016.

No significant hazards consideration comments received: No.

Pacific Gas and Electric Company (PG&E), Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment request: February 25, 2015, as supplemented by letter dated July 8, 2015.

Brief description of amendments: The amendments incorporated into the licensing basis an analysis of pressurizer reaching a water-solid (filled) condition associated with the main feedwater pipe rupture accident summarized in the Updated Final Safety Analysis Report (UFSAR), Section 15.4.2.2. Further, the amendments involved the addition of time critical operator actions and modifications of the PG&E Design Class I backup nitrogen accumulators, which are credited in the new pressurizer filling analysis.

Date of issuance: February 19, 2016.

Effective date: As of its date of issuance and shall be implemented within 90 days following PG&E implementation of Design Class 1 backup nitrogen accumulator modifications, planned for the nineteenth refueling outage 2R19 for Unit No. 2.

Amendment Nos.: Unit 1—223; Unit 2—225. A publicly-available version is in ADAMS under Accession No. ML16032A006; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Facility Operating License Nos. DPR–80 and DPR–82: The amendments revised the Facility Operating Licenses and UFSAR.

Date of initial notice in ***Federal Register****:* April 28, 2015 (80 FR 23605). The supplemental letter dated July 8, 2015, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 19, 2016

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Inc., Docket Nos. 50–348 and 50–364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendment request: May 12, 2015, as supplemented by letters dated September 15, 2015; November 25, 2015; and January 28, 2016.

Brief description of amendments: The amendments revised and added Surveillance Requirements to verify that the system locations susceptible to gas accumulation are sufficiently filled with water and to provide allowances that permit performance of the verification. The changes are consistent with Technical Specification Trask Force Traveler (TSTF)-523, Revision 2, ''Generic Letter 2008–01, Managing Gas Accumulation.''

Date of issuance: February 26, 2016.

Effective date: As of its date of issuance and shall be implemented within 120 days from the date of issuance.

Amendment Nos.: Unit 1—200, Unit 2—196. A publicly-available version is in ADAMS under Accession No. ML15345A131, documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Facility Operating License Nos. NPF–2 and NPF–8: The amendments revised the Renewed Facility Operating Licenses and Technical Specifications.

Date of initial notice in ***Federal Register****:* June 23, 2015 (80 FR 35982). The supplemental letters dated September 15, 2015; November 25, 2015; and January 28, 2016, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 26, 2016.

No significant hazards consideration comments received: No.

South Carolina Electric & Gas Company, Docket Nos. 52–027 and 52–028, Virgil C. Summer Nuclear Station (VCSNS), Units 2 and 3, Fairfield County, South Carolina

Date of amendment request: May 18, 2015.

Description of amendment: The amendment authorizes changes to the VCSNS, Units 2 and 3 Updated Final Safety Analysis Report by revising the Radiation Emergency Plan to expand the plume exposure pathway emergency planning zone (EPZ) boundary. The Evacuation Time Estimates Study and Alert and Notification System Design Report have also been revised to encompass the expanded EPZ boundary.

Date of issuance: February 5, 2016.

Effective date: As of the date of issuance and shall be implemented within 90 days of issuance.

Amendment No.: 41. A publicly-available version is in ADAMS under Accession No. ML15292A404; documents related to this amendment are listed in a Safety Evaluation enclosed with the amendment.

Facility Combined Licenses Nos. NPF–93 and NPF–94: Amendment revised the Facility Combined Licenses.

Date of initial notice in ***Federal Register****:* September 29, 2015 (80 FR 585120).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 5, 2016.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Docket Nos. 52–025 and 52–026, Vogtle Electric Generating Plant (VEGP), Units 3 and 4, Burke County, Georgia

Date of amendment request: August 21, 2015, as supplemented by letters dated September 17, 2015, and September 22, 2015.

Brief description of amendment: The amendment authorized changes to the VEGP, Units 3 and 4, Updated Final Safety Analysis Report in the form of departures from the incorporated plant-specific Design Control Document Tier 2* and associated Tier 2 information. The changes are to demonstrate that the capacity of mechanical couplers welded to structural steel embed plates required by American Concrete Institute (ACI) 349–01, ''Code Requirements for Nuclear Safety Related Concrete Structures,'' is satisfied using American Institute of Steel Construction (AISC) N690–1994, ''Specification for the Design, Fabrication, and Erection of Steel Safety-Related Structures for Nuclear Facilities,'' analysis and testing provisions.

Date of issuance: November 5, 2015.

Effective date: As of the date of issuance and shall be implemented within 30 days of issuance.

Amendment No.: 40. A publicly-available version is in ADAMS under Accession No. ML15287A031; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Facility Combined Licenses Nos. NPF–91 and NPF–92: Amendment revised the Facility Combined Licenses.

Date of initial notice in ***Federal Register****:* September 3, 2015 (80 FR 53340). The supplemental letters dated September 17, 2015, and September 22, 2015, provided additional information that did not change the scope or the conclusions of the no significant hazards determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 5, 2015.

No significant hazards consideration comments received: No.

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of amendment request: May 8, 2015, as supplemented by letter dated November 9, 2015.

Brief description of amendment: The amendment revised Technical Specifications (TSs) 2.1.1.1 and 5.6.5 to adopt the NRC-approved methodologies of Westinghouse Commercial Atomic Power reports (WCAP)–14483–A, ''Generic Method for Expanded Core Operating Limits Report,'' and WCAP–14565–P–A, Addendum 2–P–A, ''VIPRE–1 Modeling and Qualification for Pressurized Water Reactor Non-LOCA Thermal-Hydraulic Safety Analysis,'' respectively. The change in TS 2.1.1.1 would provide the departure from nucleate boiling ratio in a form that reduces the need for cycle-specific license amendments, and the change in TS 5.6.5 adds an NRC-approved methodology for determining core operating limits.

Date of issuance: February 29, 2016.

Effective date: As of its date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment No.: 216. A publicly-available version is in ADAMS under Accession No. ML16020A516; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. NPF–30: The amendment revised the operating license and TSs.

Date of initial notice in ***Federal Register****:* July 7, 2015 (80 FR 38763). The supplemental letter dated November 9, 2015, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 29, 2016.

No significant hazards consideration comments received: No.

Virginia Electric and Power Company, Docket No. 50–339, North Anna Power Station, Unit No. 2, Louisa County, Virginia

Date of amendment request: May 22, 2015. As supplemented by letter dated October 13, 2015.

Brief description of amendment: The amendment revised the Technical Specification (TS) 3.8.1, ''AC Sources-Operating,'' to remove the limitation in Note 1 that the surveillance is only applicable to Unit 1. Revised Surveillance Requirement (SR) 3.8.1.8 is applicable to both units.

Date of issuance: February 22, 2016.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment No.: 260. A publicly-available version is in ADAMS under Accession No. ML16013A444. Documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. NPF–7: Amendment revised the Facility Operating License and Technical Specification.

Date of initial notice in ***Federal Register****:* July 21, 2015 (80 FR 43131). The supplement letter dated October 13, 2015, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 22, 2016.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 2nd day of March 2016.

For the Nuclear Regulatory Commission.

Anne T. Boland,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2016–05470 Filed 3–14–16; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0054]

License Amendment Requests for Changes to Emergency Response Organization Staffing and Augmentation

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory issue summary; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is seeking public comment on a draft regulatory issue summary (RIS) to inform certain nuclear power reactor licensees of the use of guidance documents to support license amendment requests (LAR) to change augmenting emergency response organization (ERO) staffing and arrival times. The RIS will clarify the scope and level of detail that should be provided to facilitate NRC review of the LARs.

DATES: Submit comments by April 14, 2016. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received before this date.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0054. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.*
- Mail comments to: Cindy K. Bladey, Office of Administration, Mail Stop: OWFN–12–H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Todd Keene, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–1994, email: *Todd.Keene@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2016–0054 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this action by the following methods:

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0054.
- 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 draft RIS, ''License Amendment Requests for Changes to Emergency Response Organization Staffing and Augmentation,'' is available in ADAMS under Accession No. ML15338A291.
- NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2016–0054 in the subject line of your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for

submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Background

The NRC staff has developed draft RIS 2016–xx, ''License Amendment Requests for Changes to Emergency Response Organization Staffing and Augmentation,'' based on a number of recent LAR submittals that did not supply proper justification for proposed ERO changes. The NRC will clarify how licensees should use the Nuclear Energy Institute (NEI) document, NEI 10–05, ''Assessment of On-Shift Emergency Response Organization Staffing and Capabilities,'' dated June 23, 2011, in these LARs. In addition to the clarification this RIS provides, the RIS will assist licensees by providing examples of the scope and detail of information that should be provided in the LARs to facilitate the NRC review.

Proposed Action

The NRC is requesting public comments on the draft RIS. The NRC staff will make a final determination regarding issuance of the RIS after it considers any public comments received in response to this request.

Dated at Rockville, Maryland, this 10th day of March 2016.

For the Nuclear Regulatory Commission.

Tanya M. Mensah,

Acting Chief, Generic Communications Branch, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.

[FR Doc. 2016–05813 Filed 3–14–16; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2016–94 and CP2016–119; Order No. 3143]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning the addition of International Merchandise Return Service Agreements with Foreign Postal Operators Non-Published Rates to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* March 16, 2016.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

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

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Notice of Commission Action
III. Ordering Paragraphs

I. Introduction

In accordance with 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and Order No. 2639,[1] the United States Postal Service (Postal Service) filed a formal request and associated supporting information to add Competitive International Merchandise Return Service Agreements with Foreign Postal Operators 2 (IMRS–FPO 2) to the competitive products list.[2] If the proposed product is approved by the Commission, the Postal Service intends to file each new IMRS–FPO 2 agreement, along with the financial model inputs used to generate rates for each agreement, with the Commission in this docket ''within a reasonable time, *e.g.,* within 10 days of the effective date of the agreement.'' [3]

To support its Request, the Postal Service filed an application for non-public treatment of materials filed under seal; a redacted copy of Governors' Decision No. 11–6, which authorizes Outbound International Competitive Agreements; a statement of supporting justification, as required by 39 CFR 3020.32; proposed changes to the Mail Classification Schedule; a copy of the IMRS–FPO 2 model agreement; a certification of compliance with 39 U.S.C. 3633(a); a redacted copy of a related management analysis; and supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket Nos. MC2016–94 and CP2016–119 to consider the Request pertaining to the addition of IMRS–FPO 2 to the competitive products list.

The Commission invites comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than March 16, 2016. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Max E. Schnidman to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2016–94 and CP2016–119 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Max E. Schnidman is appointed to serve an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).

3. Comments are due no later than March 16, 2016.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Stacy L. Ruble,

Secretary.

[FR Doc. 2016–05745 Filed 3–14–16; 8:45 am]

BILLING CODE 7710–FW–P

[1] Docket Nos. MC2015–68 and CP2015–99, Order Conditionally Approving Addition of Competitive International Merchandise Return Service Agreements with Foreign Postal Operators (IMRS–FPO) to the Competitive Product List, August 4, 2015 (Order No. 2639).

[2] Request of the United States Postal Service to Add Competitive International Merchandise Return Service Agreements with Foreign Postal Operators 2 (IMRS–FPO 2) Product to the Competitive Products List and Notice of Filing IMRS–FPO 2 Model Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, March 8, 2016 (Request).

[3] Request at 2 (quoting Order 2639 at 8).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77332; File No. SR–NYSE–2016–16]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change Amending Rule 98 To Provide That When Designated Market Makers Enter Interest for the Purpose of Facilitating the Execution of Customer Orders, Such Orders Would Not Be Required To Be Designated as DMM Interest

March 9, 2016.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 4, 2016, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the 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 Rule 98 to provide that when Designated Market Makers (''DMM'') enter interest for the purpose of facilitating the execution of customer orders, such orders would not be required to be designated as DMM interest. 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 98 to provide that when DMMs enter interest on a proprietary basis for the purpose of facilitating the execution of customer orders, such orders would not be required to be designated as DMM interest.[4]

Background

In 2014, the Exchange amended Rule 98 to adopt a principles-based approach to prohibit the misuse of material nonpublic information by a member organization that operates a DMM unit and make conforming changes to other Exchange rules.[5] Those rule changes provide member organizations operating DMM units with the ability to integrate DMM unit trading with other trading units, while maintaining tailored restrictions to address that DMMs while on the Trading Floor may have access to certain Floor-based non-public information. By removing prescriptive restrictions, the 2014 Filing was designed to enable a member organization that engages in market-making operations on multiple exchanges to house its DMM operations together with the other market-making operations, even if such operations are customer-facing, or, to enable a member organization to consolidate all equity trading, including customer-facing operations and the DMM unit, within a single independent trading unit.

Rule 98(c) sets forth specified restrictions to operating a DMM unit.[6] Among other requirements, Rule 98(c)(4) provides that any interest entered into Exchange systems by the DMM unit in DMM securities [7] must be identifiable as DMM unit interest. Current Rule 98(c)(4) was designed to ensure that all trading activity by a DMM unit in DMM securities at the Exchange is available for review. As discussed below, under Rule 98(c)(5), DMMs would continue to be required to submit information to the Exchange to make available to the Exchange for review all trading activity by a DMM unit in DMM securities. The Exchange did not specify which system(s) a DMM unit must use because, as the Exchange's trading systems continue to evolve, the manner by which interest would be identified as DMM interest could change. Accordingly, the current rule requires any trading for the account of the DMM unit in DMM securities at the Exchange to be identifiable as DMM interest.

Rule 98(c)(5) provides that a member organization must provide the Exchange with real-time net position information for trading in DMM securities by the DMM unit and any independent trading unit of which it is a part, at such times and in the manner prescribed by the Exchange. Rule 98(d) further specifies that the DMM rules [8] will apply only to a DMM unit's quoting or trading in its DMM securities for its own accounts at the Exchange. Accordingly, the DMM rules do not apply to any customer orders that a member organization that operates a DMM unit sends to the Exchange as agent.[9]

Because Rule 98(c)(4) currently requires that any interest entered into Exchange systems by the DMM unit in DMM securities be identifiable as DMM interest, a DMM unit integrated with a customer-facing unit that would send customer orders in DMM securities to the Exchange as proprietary interest must identify it as DMM interest. As a result, although agency orders are not subject to DMM rules, customer-driven interest entered on a proprietary basis is subject to all DMM rules.

To date, none of the member organizations operating a DMM have integrated a DMM unit with a customer-facing trading unit and the Exchange believes that the current rule requiring customer-driven orders that are represented on a proprietary basis be designated as DMM interest has served as a barrier to achieving such integration.[10] Specifically, there are

[4] As defined in Rule 2(i), the term ''DMM'' means an individual member, officer, partner, employee or associated person of a Designated Market Maker Unit who is approved by the Exchange to act in the capacity of a DMM.

[5] *See* Securities Exchange Act Release Nos. 72534 (July 3, 2014), 79 FR 39019 (July 9, 2014) (Approval Order) and 71837 (April 1, 2014), 79 FR 19146 (April 7, 2014) (''2014 Notice'') (SR–NYSE–2014–12) (''2014 Filing'').

[6] As defined in Rule 98(b)(1), the term ''DMM unit'' means a trading unit within a member organization that is approved pursuant to Rule 103 to act as a DMM unit.

[7] As defined in Rule 98(b)(2), the term ''DMM securities'' means any securities allocated to the DMM unit pursuant to Rule 103B or other applicable rules.

[8] As defined in Rule 98(b)(3), the term ''DMM rules'' means any rules that govern DMM or DMM unit conduct or trading.

[9] *See* 2014 Notice, *supra* note 5 at 19152 (specifying that Rule 98(d) was added because DMM rules are not applicable to any customer orders routed to the Exchange by a member organization as agent).

[10] The Exchange understands it is a common practice among market makers that operate as wholesalers, and thus have their own customer orders as well as retail order flow from another broker dealer, to facilitate the execution of customer order flow by representing it on a proprietary basis

Continued

certain scenarios when the rules governing DMMs may conflict with a member organization's obligations to its customers. For example, DMMs are not permitted to enter Market Orders, MOO Orders, CO Orders, MOC Order, LOC Orders, or orders with Sell ''Plus''—Buy ''Minus'' Instructions.[11] But to meet customer instructions, a customer-driven order entered by a member organization on a proprietary basis may need to be one of these order types. As another example, DMMs are restricted from engaging in specified trading in the last ten minutes of trading before the close of trading.[12] But a member organization may have a best execution obligation to route a customer-driven order to the Exchange in the last ten minutes of trading.

Proposed Amendments

The Exchange proposes to amend Rule 98 to better reflect how member organizations that integrate DMM unit operations with customer-facing operations may facilitate customer-driven order flow to the Exchange in DMM securities. As noted above, one of the intended goals of the 2014 Filing was to permit member organizations to integrate DMM unit operations with other market-making operations, including customer-facing units. However, as discussed above, subjecting customer order flow that is entered on a proprietary basis to DMM rules may be inconsistent with a member organization's obligations to its customers, and thus continue to serve as a barrier to integrating DMM units within a member organization. Accordingly, the Exchange proposes to amend Rule 98 to facilitate better integration of DMM units with a member organization's existing customer-facing market-making trading units by specifying that, as with agency orders, customer-driven orders that are entered on a proprietary basis by the DMM unit would not be required to be designated as DMM interest.

The Exchange proposes to amend Rule 98 to provide that proprietary interest that is entered by a DMM unit for the purposes of facilitating customer orders would not be required to be designated as DMM interest. The Exchange proposes to replace the phrase ''any interest'' with the phrase ''proprietary interest'' in Rule 98(c)(4) to clarify that the existing rule only governs proprietary interest of a DMM unit, *i.e.,* interest for the account of the member organization. As further proposed, the Exchange would amend Rule 98(c)(4) to provide that if proprietary interest entered into Exchange systems by the DMM unit in DMM securities is for the purposes of facilitating the execution of an order from a customer (whether its own customer or the customer of another broker-dealer), such interest would not be required to be identifiable as DMM unit interest. The Exchange proposes to define such interest as a ''customer-driven order.''

The proposed definition of ''customer-driven order'' is not a novel concept in that other SROs rules define the concept of a proprietary order being entered to facilitate a customer order. For example, Supplementary Material .03 to FINRA Rule 5320 defines the term ''facilitated order'' to mean a proprietary trade that is for the purposes of facilitating the execution, on a riskless principal basis, of an order from a customer (whether its own customer or another broker-dealer).[13] The Exchange proposes a distinction for the definition of ''customer-driven order'' in Rule 98 as compared to the Rule 5320 definition of ''facilitated order'' because as proposed, a customer-driven order would not be required to be entered on a riskless basis. Rather, the Exchange believes that any customer order that a member organization facilitates on a proprietary basis should be eligible for treatment under proposed Rule 98(c)(4).[14]

The proposed rule change is designed to reflect how member organizations handle customer orders, which in many circumstances, are routed to an exchange on a proprietary basis to facilitate execution of a customer's order. Therefore, the Exchange believes that the proposed amendment is consistent with the current rule, which does not require agency orders entered by the member organization that operates a DMM unit to be subject to DMM rules.[15]

The Exchange further proposes to amend Rule 98(d) to specify which rules would be applicable to trading by the DMM unit. As proposed, the rules, fees, or credits applicable to DMM quoting or trading activity would apply only to a DMM unit's quoting or trading in its DMM securities for its own account at the Exchange that has been identified as DMM interest. In addition, consistent with the proposal that customer-driven orders would not be required to be designated as DMM interest, the Exchange proposes to add text to Rule 98(d) to state that customer-driven orders for the account of a DMM unit that have not been identified as DMM interest would not be subject to DMM rules or be eligible for any fees or credits applicable to DMM quoting or trading activity.[16] In addition, such customer-driven orders could not be aggregated with interest that has been identified as DMM interest for purposes of any DMM-related fees or credits or DMM quoting obligations specified in Rule 104(a). This proposed rule text would provide that customer-driven orders not designated as DMM interest would not be subject to DMM rules, which, as described above, include restrictions on availability of certain order types and entry of specified orders during the last ten minutes of trading. Because a customer-driven order that has not been designated as DMM interest would not be subject to DMM rules, it would also not be eligible for a parity allocation applicable for DMMs pursuant to Rule 72(c) or be used to assist a DMM in meeting its quoting obligations, or be eligible for DMM fees or credits.

The Rule 98(c)(5) obligation to provide the Exchange with real-time net position information in DMM securities would continue to be applicable to the DMM unit's position in DMM securities together with any position of a Regulation SHO independent trading unit of which the DMM unit may be included, regardless of whether they are positions resulting from trades in away markets, trades as a result of DMM interest entered at the Exchange, or customer-driven orders routed to the Exchange that were not identified as DMM interest.[17] For example, if a DMM

when such orders are routed to an exchange. Once a customer-driven order that has been represented on a proprietary basis on an exchange has been executed, the market maker uses the position acquired on the Exchange to fill the customer order either on a riskless-principal basis or with price improvement to the customer.

[11] *See* Rule 104(b)(vi).

[12] *See* Rule 104(g)(i)(A)(III) (defining Prohibited Transactions). Specifically, a DMM with a long position in a security is prohibited from making a purchase in a security that results in a new high price on the Exchange for the day, and a DMM with a short position in a security is prohibited from making a sale in such security that results in a new low price for the day.

[13] *See also* Supplementary Material .03 to NYSE Rule 5320.

[14] If a customer-driven order, as defined in Rule 98(c)(4), is not handled on a riskless principal basis, it would not be eligible for the riskless principal exception to the prohibition against trading ahead of customer orders as specified in Rule 5320.

[15] *See supra* note 9.

[16] Rather, such customer-driven orders would be eligible for any fees or credits applicable to equity transactions at the Exchange that are not DMM or Floor broker trades. *See* NYSE Price List, available here: *https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE_Price_List.pdf.*

[17] Under Regulation SHO, determination of a seller's net position is based on the seller's position in the security in all proprietary accounts. *See* Securities Exchange Act Release No. 50103 (July 28, 2004), 69 FR 48008, 48010, n.22 (Aug. 6, 2004); *see also* Securities Exchange Act Release Not 48709 (Oct. 29, 2003), 68 FR 62972, 62991 and 62994

unit is combined with market-making desks that are trading on away markets and that route customer-driven orders to the Exchange in DMM securities that are not identified as DMM interest, the member organization would be required to report the position of the entire DMM unit in DMM securities, not only the DMM's Exchange-traded positions resulting from DMM interest. The Exchange also proposes a non-substantive amendment to Rule 98(c)(5) to delete the term ''for trading,'' which the Exchange believes is extraneous rule text.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) [18] that an Exchange have rules that are designed to promote the 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 Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market by providing greater specificity in Rule 98 regarding which proprietary interest would be required to be entered as DMM interest.

The Exchange believes that the proposed amendment to define the term ''customer-driven order'' to be proprietary interest of a DMM that is for the purposes of facilitating the execution of an order from a customer (whether its own customer or the customer of another broker-dealer) reflects the current reality of how broker-dealers facilitate customer orders that are routed to an exchange. Specifically, such customer orders are routed to an exchange on a proprietary basis, and once an execution is received from an exchange, the execution is provided to the customer either on a riskless principal basis or with price improvement. Facilitating customer orders on a proprietary basis is not a novel concept and serves as the basis of the definition of the term ''facilitated order'' in Supplementary Material .03 to FINRA Rule 5320. While the Exchange proposes that customer-driven orders for the purposes of Rule 98 would not be required to be executed on a riskless principal basis, this difference does not alter the premise of how member organizations facilitate customer orders, as already established in Rule 5320.03. Because the proposed definition reflects how customer orders are facilitated on a proprietary basis when routed to an exchange, the Exchange believes that the proposed amendment to Rule 98(c)(4) to define the term ''customer-driven order'' would remove impediments to and perfect the mechanism of a free and open market.

The Exchange further believes that providing DMM units with a choice of whether to designate a customer-driven order as DMM interest would remove impediments to and perfect the mechanism of a free and open market because certain DMM rules may conflict with a broker-dealer's obligation to its customers. As discussed in the 2014 Filing, agency orders entered by a member organization that operates a DMM unit are not subject to DMM rules.[19] Yet, if that same customer order were routed to the Exchange on a proprietary basis, which is the manner by which broker-dealers may handle customer order flow, it would be subject to DMM rules. Accordingly, because Rule 98 does not currently require agency flow to be subject to DMM rules, the Exchange believes it is consistent with the protection of investors and the public interest that agency flow that is facilitated by a member organization on a proprietary basis at the Exchange would similarly not be required to be subject to DMM rules.

The proposed rule change would further be consistent with the protection of investors and the public interest because it would enable customer-driven orders to not be subject to DMM rules and eliminate any conflict with customer instructions or best execution obligations.

The Exchange further believes that the proposed amendments to Rule 98(d) would remove impediments to and perfect the mechanism of a free and open market by promoting transparency in Exchange rules regarding which rules, fees or credits applicable to DMM quoting or trading activity would be applicable to which interest. More specifically, the Exchange believes that it would remove impediments to and perfect the mechanism of a free and open market to provide specificity in Exchange rules that customer-driven orders that have not been designated as DMM interest would not be subject to the DMM rules and also would not be eligible for DMM fees or credits or to be aggregated with DMM interest for purposes of any DMM-related fees or credits or DMM quoting obligations.

Finally, the Exchange believes that the proposed amendment to Rule 98(c)(5) would remove impediments to and perfect the mechanism of a free and open market by removing extraneous rule text, thus promoting simplicity in 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 that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is designed to be pro-competitive because it would remove a restriction unique to DMMs as specified in Rule 98, thus enabling existing customer-facing market making units to operate as a DMM unit at the Exchange without needing to change the manner by which they may facilitate customer orders on a proprietary basis at an exchange.

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 respectfully requests accelerated effectiveness of this proposed rule change pursuant to Section 19(b)(2) of the Act.[20] The Exchange believes that there is good cause for the Commission to accelerate effectiveness because the proposed rule change is consistent with the goal of the 2014 Filing to exclude agency orders entered by a member organization that operates a DMM unit from being subject to DMM rules. The proposed rule change is designed to reflect how member organizations represent agency orders and narrowly defines a class of proprietary interest that is entered to facilitate customer orders from being required to be subject to DMM rules. Moreover, the proposed definition of ''customer-driven order'' is not novel, as is it based on the existing definition of ''facilitated order'' set forth in Supplementary Material .03 to Rule 5320 and Supplementary Material .03 to FINRA Rule 5320, which already describe how proprietary orders can be entered to facilitate a customer order.

(Nov. 6, 2003); Letter from Richard R. Lindsey, Director, Division of Market Regulation, to Roger D. Blanc, Wilkie Farr & Gallagher, SEC No-Action Letter, 1998 SEC No-Act. LEXIS 1038, p. 5 (Nov. 23, 1998); Securities Exchange Act Release No. 30772 (June 3, 1992), 57 FR 24415, 24419 n.47 (June 9, 1992); Securities Exchange Act Release No. 27938 (Apr. 23, 1990), 55 FR 17949, 17950 (Apr. 30, 1990).

[18] 15 U.S.C. 78f(b)(5).

[19] *See supra* note 9.

[20] 15 U.S.C. 78s(b)(2).

The Exchange believes that difference between the proposed Rule 98 definition of ''customer-driven order'' and the Rule 5320 definition of ''facilitated order'' is not material because, if a ''customer-driven order'' under Rule 98 is not executed on a riskless principal basis, it would still be subject to the requirements of Rule 5320 and would not be eligible for the riskless principal exception.

The Exchange further believes that providing DMMs with the choice of whether to designate customer-driven orders as DMM interest would permit member organizations operating DMM units to facilitate customer-based order flow at the Exchange without such orders being restricted by DMM obligations, which may be contrary to customer instructions or best execution obligations. The Exchange further believes that the proposed rule change would apply DMM rules fairly because customer-driven orders not designated as DMM interest, would not be subject to the obligations, nor be eligible for the benefits, applicable to DMM interest.

Finally, the Exchange believes there is good cause to accelerate effectiveness of this proposed rule change because it would promote competition on the Exchange. As has been previously announced, additional member organizations are seeking to become approved as DMMs.[21] The proposed rule change would facilitate the transition of DMM responsibilities to new entrants that engage in customer-facing market making, thereby promoting competition among member organizations seeking to be approved as a DMM on the Exchange.

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. by order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2016–16 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–NYSE–2016–16. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2016–16 and should be submitted on or before April 5, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–05753 Filed 3–14–16; 8:45 am]

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[21] *See* ''Citadel Securities to become #1 Designated Market Maker on NYSE,'' available at *http://www.citadelsecurities.com/news/citadel-securities-become-1-designated-market-maker-nyse/;* and ''GTS to become Designated Market Maker on the New York Stock Exchange,'' available at *http://gtsx.com/in-the-news/details/gts-to-become-designated-market-maker-on-the-new-york-stock-exchange.*

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77333; File No. SR–BATS–2016–02]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change to Rule 14.11(i), Managed Fund Shares, To List and Trade Shares of the iShares iBonds Dec 2023 AMT-Free Muni Bond ETF, iShares iBonds Dec 2024 AMT-Free Muni Bond ETF, iShares iBonds Dec 2025 AMT-Free Muni Bond ETF, and iShares iBonds Dec 2026 AMT-Free Muni Bond ETF of the iShares U.S. ETF Trust

March 9, 2016.

On January 12, 2016, BATS Exchange, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares of the iShares iBonds Dec 2023 AMT-Free Muni Bond ETF, iShares iBonds Dec 2024 AMT-Free Muni Bond ETF, iShares iBonds Dec 2025 AMT-Free Muni Bond ETF, and iShares iBonds Dec 2026 AMT-Free Muni Bond ETF of the iShares U.S. ETF Trust under BATS Rule 14.11(i). The proposed rule change was published for comment in the **Federal Register** on January 27, 2016.[3] The Commission has not received any comments on the proposal.

Section 19(b)(2) of the Act[4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 76954 (Jan. 21, 2016), 81 FR 4695.

[4] 15 U.S.C. 78s(b)(2).

proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is March 12, 2016. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider this proposed rule change. Accordingly, the Commission, pursuant to section 19(b)(2) of the Act,[5] designates April 26, 2016, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–BATS–2016–02).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–05754 Filed 3–14–16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77328; File No. TP 16–4]

Order Granting Limited Exemptions From Exchange Act Rule 10b–17 and Rules 101 and 102 of Regulation M to PowerShares DWA Tactical Multi-Asset Income Portfolio Pursuant to Exchange Act Rule 10b–17(b)(2) and Rules 101(d) and 102(e) of Regulation M

March 9, 2016.

By letter dated March 9, 2016 (the ''Letter''), as supplemented by conversations with the staff of the Division of Trading and Markets, counsel for PowerShares Exchange-Traded Fund Trust II (the ''Trust''), on behalf of the Trust, PowerShares DWA Tactical Multi-Asset Income Portfolio (the ''Fund''), any national securities exchange on or through which shares issued by the Fund (''Shares'') may subsequently trade, Invesco Distributors, Inc. (the ''Distributor''), and persons or entities engaging in transactions in Shares (collectively, the ''Requestors''), requested exemptions, or interpretive or no-action relief, from Rule 10b–17 of the Securities Exchange Act of 1934, as amended (''Exchange Act''), and Rules 101 and 102 of Regulation M, in connection with secondary market transactions in Shares and the creation or redemption of aggregations of Shares of at least 50,000 shares (''Creation Units'').

The Trust is registered with the Securities and Exchange Commission (''Commission'') under the Investment Company Act of 1940, as amended (''1940 Act''), as an open-end management investment company. The Fund seeks to track the performance of the underlying index, the Dorsey Wright® Multi-Asset Income Index (the ''Index''). The Fund intends to operate as an ''ETF of ETFs'' by seeking to track the performance of its underlying Index through, under normal circumstances,[1] investing at least 90% of its total assets [2] in up to five ETFs that comprise the Index. Except for the fact that the Fund will operate as an ETF of ETFs, the Fund will operate in a manner identical to the ETFs that are included in the Index.

The Requestors represent, among other things, the following:

- Shares of the Fund will be issued by the Trust, an open-end management investment company that is registered with the Commission;
- The Trust will continuously redeem Creation Units at net asset value (''NAV''), and the secondary market price of the Shares should not vary substantially from the NAV of such Shares;
- Shares of the Fund will be listed and traded on the NASDAQ Stock Market LLC or another exchange in accordance with exchange listing standards that are, or will become, effective pursuant to Section 19(b) of the Exchange Act (the ''Exchange''); [3]
- All ETFs in which the Fund is invested will meet all conditions set forth in a relevant class relief letter,[4] will have received individual relief from the Commission, or will be able to rely upon individual relief even though they are not named parties (for example, a no-action letter);
- At least 70% of the Fund is comprised of component securities that will meet the minimum public float and minimum average daily trading volume thresholds under the ''actively-traded securities'' definition found in Regulation M for excepted securities during each of the previous two months of trading prior to formation of the Fund;
- All of the components of the Index will have publicly available last sale trade information;
- The intra-day proxy value of the Fund per share and the value of the Index will be publicly disseminated by a major market data vendor throughout the trading day;
- On each business day before the opening of business on the Exchange, the Fund's custodian, through the National Securities Clearing Corporation, will make available the list of the names and the numbers of securities and other assets of the Fund's portfolio that will be applicable that day to creation and redemption requests;
- The Exchange or other market information provider will disseminate (i) continuously every 15 seconds throughout the trading day, through the facilities of the consolidated tape, the market value of a Share, and (ii) every 15 seconds throughout the trading day, a calculation of the intra-day indicative value of a Share;
- The arbitrage mechanism will be facilitated by the transparency of the Fund's portfolio and the availability of the intra-day indicative value, the liquidity of securities held by the Fund, and the ability to acquire such securities, as well as the arbitrageurs' ability to create workable hedges;

[1] The term ''under normal circumstances'' includes, but is not limited to, the absence of adverse market, economic, political, or other conditions, including extreme volatility or trading halts in the securities markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure-type events, such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption, or any similar intervening circumstance.

[2] The remaining ten percent of the Fund's total assets may be invested in securities (including other underlying funds) not included in the underlying Index and in money market instruments or funds that invest exclusively in money market instruments, subject to applicable limitations under the 1940 Act. Regardless of the representation that the Fund generally will invest at least 90% of its total assets in securities that comprise the underlying Index, the Fund seeks to have a tracking error of less than five percent in any given month over a one-year period.

[3] Further, the Letter states that should the Shares also trade on a market pursuant to unlisted trading privileges, such trading will be conducted pursuant to self-regulatory organization rules that have become effective pursuant to Section 19(b) of the Exchange Act.

[4] Exchange Act Rel. No. 67215 (June 19, 2012); 77 FR 37941 (June 25, 2012); Letter from Catherine McGuire, Esq., Chief Counsel, Division of Market Regulation, to the Securities Industry Association Derivative Products Committee (November 21, 2005); Letter from Racquel L. Russell, Branch Chief, Division of Market Regulation, to George T. Simon, Esq., Foley & Lardner LLP (June 21, 2006); Letter from James A. Brigagliano, Acting Associate Director, Division of Market Regulation, to Stuart M. Strauss, Esq., Clifford Chance US LLP (October 24, 2006); Letter from James A. Brigagliano, Associate Director, Division of Market Regulation, to Benjamin Haskin, Esq., Willkie Farr & Gallagher LLP (April 9, 2007); Letter from Josephine Tao, Assistant Director, Division of Trading and Markets, to Domenick Pugliese, Esq., Paul, Hastings, Janofsky & Walker LLP (June 27, 2007); *see also* Staff Legal Bulletin No. 9, ''Frequently Asked Questions About Regulation M'' (April 12, 2002) (regarding actively-managed ETFs).

[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

• The Fund will invest solely in liquid securities;
• The Fund will invest in securities that will facilitate an effective and efficient arbitrage mechanism and the ability to create workable hedges;
• The Trust believes that arbitrageurs are expected to take advantage of price variations between the Fund's market price and its NAV; and
• A close alignment between the market price of Shares and the Fund's NAV is expected.

Regulation M

While redeemable securities issued by an open-end management investment company are excepted from the provisions of Rules 101 and 102 of Regulation M, the Requestors may not rely upon those exceptions for the Shares.[5] However, we find that it is appropriate in the public interest and is consistent with the protection of investors to grant a conditional exemption from Rules 101 and 102 to persons who may be deemed to be participating in a distribution of Shares of the Fund as described in more detail below.

Rule 101 of Regulation M

Generally, Rule 101 of Regulation M is an anti-manipulation rule that, subject to certain exceptions, prohibits any ''distribution participant'' and its ''affiliated purchasers'' from bidding for, purchasing, or attempting to induce any person to bid for or purchase any security that is the subject of a distribution until after the applicable restricted period, except as specifically permitted in the Rule. Rule 100 of Regulation M defines ''distribution'' to mean any offering of securities that is distinguished from ordinary trading transactions by the magnitude of the offering and the presence of special selling efforts and selling methods. The provisions of Rule 101 of Regulation M apply to underwriters, prospective underwriters, brokers, dealers, or other persons who have agreed to participate or are participating in a distribution of securities. The Shares are in a continuous distribution, and, as such, the restricted period in which distribution participants and their affiliated purchasers are prohibited from bidding for, purchasing, or attempting to induce others to bid for or purchase extends indefinitely.

Based on the representations and the facts presented in the Letter, particularly that the Trust is a registered open-end management investment company that will continuously redeem at the NAV Creation Unit size aggregations of the Shares of the Fund and that a close alignment between the market price of Shares and the Fund's NAV is expected, the Commission finds that it is appropriate in the public interest, and consistent with the protection of investors to grant the Trust an exemption under paragraph (d) of Rule 101 of Regulation M with respect to the Fund, thus permitting persons participating in a distribution of Shares of the Fund to bid for or purchase such Shares during their participation in such distribution.[6]

Rule 102 of Regulation M

Rule 102 of Regulation M prohibits issuers, selling security holders, and any affiliated purchaser of such person from bidding for, purchasing, or attempting to induce any person to bid for or purchase a covered security during the applicable restricted period in connection with a distribution of securities effected by or on behalf of an issuer or selling security holder.

Based on the representations and the facts presented in the Letter, particularly that the Trust is a registered open-end management investment company that will redeem at the NAV Creation Unit size aggregations of Shares of the Fund and that a close alignment between the market price of Shares and the Fund's NAV is expected, the Commission finds that it is appropriate in the public interest, and consistent with the protection of investors to grant the Trust an exemption under paragraph (e) of Rule 102 of Regulation M with respect to the Fund, thus permitting the Fund to redeem Shares of the Fund during the continuous offering of such Shares.

Rule 10b–17

Rule 10b–17, with certain exceptions, requires an issuer of a class of publicly traded securities to give notice of certain specified actions (for example, a dividend distribution) relating to such class of securities in accordance with Rule 10b–17(b). Based on the representations and the facts presented in the Letter, and subject to the conditions below, the Commission finds that it is appropriate in the public interest, and consistent with the protection of investors, to grant the Trust a conditional exemption from Rule 10b–17 because market participants will receive timely notification of the existence and timing of a pending distribution, and thus the concerns that the Commission raised in adopting Rule 10b–17 will not be implicated.[7]

Conclusion

It is hereby ordered, pursuant to Rule 101(d) of Regulation M, that the Trust, based on the representations and facts presented in the Letter, is exempt from the requirements of Rule 101 with respect to the Fund, thus permitting persons who may be deemed to be participating in a distribution of Shares of the Fund to bid for or purchase such Shares during their participation in such distribution.

It is further ordered, pursuant to Rule 102(e) of Regulation M, that the Trust, based on the representations and the facts presented in the Letter, is exempt from the requirements of Rule 102 with respect to the Fund, thus permitting the Fund to redeem Shares of the Fund during the continuous offering of such Shares.

It is further ordered, pursuant to Rule 10b–17(b)(2), that the Trust, based on the representations and the facts presented in the Letter and subject to the conditions below, is exempt from the requirements of Rule 10b–17 with respect to the transactions in the Shares of the Fund.

This exemptive relief is subject to the following conditions:

• The Trust will comply with Rule 10b–17, except for Rule 10b–17(b)(1)(v)(a) and (b); and
• The Trust will provide the information required by Rule 10b–17(b)(1)(v)(a) and (b) to the Exchange as soon as practicable before trading begins on the ex-dividend date, but in no event later than the time when the Exchange last accepts information relating to distributions on the day before the ex-dividend date.

This exemptive relief is subject to modification or revocation at any time the Commission determines that such action is necessary or appropriate in furtherance of the purposes of the Exchange Act. This exemption is based on the facts presented and the representations made in the Letter. Any different facts or representations may

[5] While ETFs operate under exemptions from the definitions of ''open-end company'' under Section 5(a)(1) of the 1940 Act and ''redeemable security'' under Section 2(a)(32) of the 1940 Act, the Fund and its securities do not meet those definitions.

[6] Additionally, we confirm the interpretation that a redemption of Creation Unit size aggregations of Shares of the Fund and the receipt of securities in exchange by a participant in a distribution of Shares of the Fund would not constitute an ''attempt to induce any person to bid for or purchase, a covered security during the applicable restricted period'' within the meaning of Rule 101 of Regulation M and therefore would not violate that rule.

[7] We also note that timely compliance with Rule 10b–17(b)(1)(v)(a) and (b) would be impractical in light of the Fund's nature because it is not possible for the Fund to accurately project ten days in advance what dividend, if any, would be paid on a particular record date.

require a different response. Persons relying upon this exemptive relief shall discontinue transactions involving the Shares of the Fund, pending presentation of the facts for the Commission's consideration, in the event that any material change occurs with respect to any of the facts or representations made by the Requestors, and as is the case with all preceding letters, particularly with respect to the close alignment between the market price of Shares and the Fund's NAV. In addition, persons relying on this exemption are directed to the anti-fraud and anti-manipulation provisions of the Exchange Act, particularly Sections 9(a), 10(b), and Rule 10b–5 thereunder.

Responsibility for compliance with these and any other applicable provisions of the federal securities laws must rest with the persons relying on this exemption. This Order should not be considered a view with respect to any other question that the proposed transactions may raise, including, but not limited to, the adequacy of the disclosure concerning, and the applicability of other federal or state laws to, the proposed transactions.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–05749 Filed 3–14–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, March 17, 2016 at 2:00 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matter at the Closed Meeting.

Commissioner Piwowar, as duty officer, voted to consider the items listed for the Closed Meeting in closed session.

The subject matter of the Closed Meeting will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Adjudicatory matters;

Opinion; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: March 10, 2016.

Lynn M. Powalski,

Deputy Secretary.

[FR Doc. 2016–05879 Filed 3–11–16; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77331; File No. SR–CHX–2016–01]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change To Adopt and Amend Rules To Permit the Exchange To Initiate CHX SNAP℠ Cycles

March 9, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 26, 2016, the Chicago Stock Exchange, Inc. (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CHX proposes to adopt and amend rules to permit the Exchange to initiate CHX SNAP℠ cycles. The text of this proposed rule change is available on the Exchange's Web site at *http://www.chx.com/rules/proposed_rules.htm,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to adopt and amend rules to permit the Exchange to initiate CHX SNAP (''SNAP'') Cycles.[3] Currently, a SNAP Cycle may only be initiated upon receipt of a valid limit order marked Start SNAP (''Start SNAP order'') submitted by an order sender.[4] The Exchange now proposes to permit the Exchange to initiate a SNAP Cycle, without receipt of a valid Start SNAP order, if a periodic *pro forma* SNAP review of the contents of the CHX book, SNAP Auction Only Order (''AOO'') Queue[5] and Protected Quotations of external markets, in a given security, show that the projected execution size that would result if a SNAP Cycle were to be initiated at that moment would meet certain minimum size and notional value requirements, as applicable (''Exchange-initiated SNAP''). This proposal is designed to permit marketable, yet inactive passive liquidity of a substantial size (*i.e.,* inactive SNAP AOOs), to execute via SNAP in the absence of a Start SNAP order. The proposed rule change does not modify the operation of SNAP Cycles in any other way.

[8] 17 CFR 200.30–3(a)(6) and (9).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 76262 (October 26, 2015), 80 FR 67440 (November 2, 2015) (SR–CHX–2015–05); *see also* Securities Exchange Act Release No. 76087 (October 6, 2015), 80 FR 61540 (October 13, 2015); *see also* Securities Exchange Act Release No. 75346 (July 1, 2015), 80 FR 39172 (July 8, 2015) (SR–CHX–2015–03). The approved rule changes are not yet operative and will become operative upon two weeks' notice by the Exchange to its Participants.

[4] *See supra id.; see also* CHX Article 1, Rule 2(h)(1); *see also* CHX Article 18, Rule 1(b)(1).

[5] *See supra* note 3; *see also* CHX Article 20, Rule 8(b)(2)(A).

Background

In sum, a SNAP Cycle [6] is comprised of the following five stages:

- Stage one—Initiating the SNAP Cycle;
- Stage two—SNAP Order Acceptance Period;
- Stage three—Pricing and Satisfaction Period;
- Stage four—Order Matching Period; and
- Stage five—Transition to the Open Trading State.[7]

Currently, only Start SNAP orders that meet minimum size, price and time of receipt requirements could initiate a SNAP Cycle.[8] Moreover, a Start SNAP order sender may instruct the Exchange to cancel the SNAP Cycle if a minimum execution size condition would not be met.[9] Upon receipt and acceptance of a valid Start SNAP order, order cancellations in the security would be prohibited [10] and a SNAP Cycle would proceed as follows:

- During the stage one Initiating the SNAP Cycle, automated trading in the subject security on the Exchange would be suspended and remain suspended for the duration of the SNAP Cycle.
- During the stage two SNAP Order Acceptance Period, the Exchange will transition precedent SNAP Eligible Orders [11] to the SNAP CHX book and accept new SNAP Eligible Orders for a randomized time period for inclusion on the SNAP CHX book.[12]
- During the stage three Pricing and Satisfaction Period, the Exchange will attempt to ascertain a single auction price (*i.e.,* ''SNAP Price'') [13] from SNAP Eligible Orders resting on the SNAP CHX book based on a new market snapshot (''stage three market snapshot''). If the SNAP Price is determined to be at a price that would require orders to be routed away, the Exchange would route away SNAP Eligible Orders resting on the SNAP CHX book.[14] Immediately after the necessary orders are routed away, the SNAP Cycle would enter the Satisfaction Period, during which time the Exchange would delay proceeding to the stage four Order Matching Period for a period of time not to exceed 200 milliseconds to allow for confirmations of routed orders to be received from external markets. However, if the SNAP Price does not require orders to be routed away, the SNAP Cycle would immediately proceed to the stage four Order Matching Period. Moreover, if the SNAP Price could not be confirmed, the SNAP Cycle would be aborted and immediately proceed to the stage five Transition to the Open Trading State.[15]
- During the stage four Order Matching Period, SNAP Eligible Orders on the SNAP CHX book would execute at the SNAP Price within the Matching System.[16]
- During the stage five Transition to the Open Trading State, unexecuted SNAP Eligible Orders, as well as other orders and cancel messages that have been queued during the SNAP Cycle, would be transitioned to the CHX book for automated trading based on a new market snapshot.[17] During the transition, orders may, among other things, be executed within the Matching System or be routed away in a manner consistent with how orders are currently executed and routed during automated trading.[18]

Proposed Article 18, Rule 1A (Initiating SNAP)

The Exchange now proposes to adopt Article 18, Rule 1A, which describes the current and proposed mechanisms for initiating SNAP Cycles. Thereunder, proposed paragraph (a) provides that subject to current Article 18, Rule 1(c),[19] a SNAP Cycle in a security shall be initiated either (1) upon receipt of a valid limit order marked Start SNAP, as defined under current Article 1, Rule 2(h)(1), or (2) by the Exchange pursuant to proposed paragraph (b). Specifically, proposed paragraph (a)(1) is a restatement of language from current Article 18, Rule 1(b)(1) that provides that a SNAP Cycle would be initiated upon receipt of a limit order marked Start SNAP,[20] whereas proposed paragraph (a)(2) is new language that refers to the proposed Exchange-initiated SNAP mechanism, as described in detail under proposed paragraph (b).

Proposed paragraph (b) details the circumstances under which the Exchange would initiate a SNAP Cycle in a security. It provides that during the Open Trading State for each SNAP-eligible security and at preprogrammed intervals,[21] the Exchange shall review the CHX book, SNAP AOO Queue and Protected Quotations of external markets to determine whether sufficient liquidity exists to initiate a SNAP Cycle without the receipt of a valid limit order marked Start SNAP (''*pro forma* SNAP review''). Proposed paragraph (b) continues by providing that in conducting the *pro forma* SNAP review, the Exchange shall take a market snapshot of the Protected Quotations of external markets in the subject security and calculate a *pro forma* SNAP Price, as defined under current Article 1, Rule 1(rr),[22] to determine:

(1) Whether the projected execution size (''PES'') at the *pro forma* SNAP Price is equal to or greater than the corresponding minimum PES, as described under paragraph (d); and

(2) whether the PES within the Matching System at the *pro forma* SNAP Price would be equal to or greater than 80% of the corresponding minimum PES.

If the conditions set forth under proposed paragraphs (b)(1) and (2) are

[6] *See supra* note 3; *see also* CHX Article 18, Rule 1(b).

[7] *See supra* note 3; *see also* CHX Article 1, Rule 1(qq).

[8] *See supra* note 3; *see also* CHX Article 1, Rule 2(h)(1).

[9] *See id.*

[10] Among other things, order cancellation messages would be queued for processing at the conclusion of the SNAP Cycle. *See supra* note 3; *see also* CHX Article 18, Rule 1(b)(2)(C)(i).

[11] *See supra* note 3; *see also* CHX Article 1, Rule 1(ss).

[12] *See supra* note 3; *see also* CHX Article 18, Rule 1(b)(2); *see also* CHX Article 20, Rule 8(b)(3).

[13] *See supra* note 3; *see also* CHX Article 1, Rule 1(rr).

[14] *See supra* note 3; *see also* CHX Article 19, Rule 3(a)(4) and (5).

[15] *See supra* note 3; *see also* CHX Article 1, Rule 1(qq).

[16] *See supra* note 3; *see also* CHX Article 18, Rule 1(b)(4).

[17] *See supra* note 3; *see also* CHX Article 18, Rule 1(b)(5).

[18] *See* CHX Article 19, Rule 3(a)(1)–(3); *see also* CHX Article 20, Rule 8(e)(1).

[19] *See supra* note 3; CHX Article 18, Rule 1(c) provides, among other things, that if a trading halt, pause or suspension is in effect for the subject security that requires the Exchange to suspend trading in that security at the time a limit order marked Start SNAP is received, a SNAP Cycle shall not be initiated. In light of the proposed Exchange-initiated SNAP mechanism, the Exchange proposes to amend CHX Article 18, Rule 1(c) to provide generally that a SNAP Cycle shall not begin in a security if a trading halt, pause or suspension is in effect for a subject security that requires the Exchange to suspend trading in that security.

[20] Correspondingly, the Exchange proposes to amend current Article 18, Rule 1(b)(1) to contemplate proposed Rule 1A and to amend the subtitle of current Rule 1(b)(1) to provide ''Beginning the SNAP Cycle,'' so as to clarify the distinction between the initiation of a SNAP Cycle, as described under proposed Rule 1A, and the initial steps that would be taken thereafter.

[21] On a technical level, the Matching System is comprised of several Matching Engines and each security traded on the Exchange is placed into only one Matching Engine. The Exchange proposes to conduct *pro forma* SNAP reviews of each SNAP-eligible security in a given Matching Engine consecutively and continuously in a preset order. The Exchange will not modify this procedure absent an approved filing pursuant to Rule 19b–4 under the Act.

[22] The Exchange notes that the calculation of the *pro forma* SNAP Price is identical to the calculation of the SNAP Price during the stage three Pricing and Satisfaction Period, except that the *pro forma* SNAP Price calculation would not include any new orders received during the stage two Order Acceptance Period, as a SNAP Cycle would not have yet been initiated. Example 2 below describes how the *pro forma* SNAP Price would be calculated.

met, the Exchange shall initiate a SNAP Cycle pursuant to current Article 18, Rule 1(b), subject to proposed paragraph (c). Proposed paragraphs (b) is designed to ensure that a SNAP Cycle would only be initiated by the Exchange if marketable passive liquidity of a substantial size is available at the Exchange.[23] Specifically, the condition set forth under proposed paragraph (b) is intended to avoid a scenario where the market snapshot taken pursuant to proposed paragraph (b) shows substantial liquidity displayed away from the Exchange, but by the time the SNAP Cycle is initiated and the stage three market snapshot is taken to determine the actual SNAP Price, the away liquidity has disappeared, thus resulting in an aggregate SNAP execution size that is much smaller than the PES. By requiring that 80% of the PES be projected to occur within the Matching System, this scenario is avoided.[24]

Proposed paragraph (d) is similar to current Article 1, Rule 2(h)(1)(A)(i) and provides that the minimum PES for an Exchange-initiated SNAP pursuant to proposed paragraph (b) shall either be (1) 2,500 shares with a minimum aggregate notional value of $250,000 based on the midpoint of the National Best Bid and Offer (''NBBO'') ascertained from the market snapshot taken pursuant to paragraph (b) above or (2) 20,000 shares with no minimum aggregate notional value requirement; provided, however, Berkshire Hathaway, Inc. (BRK–A) will be a flat 100 shares minimum PES, due to its extraordinary share price.

Proposed paragraph (c) places conditions on Exchange-initiated SNAP that are virtually identical to conditions for a valid Start SNAP order under current Article 1, Rule 2(h)(1). Similar to current Article 1, Rule 2(h)(1)(A)(iii), proposed paragraph (c)(1) provides that the Exchange shall not initiate a SNAP Cycle within five minutes of the first two-sided quote in the subject security having been received by the Exchange from the primary market disseminated after either the beginning of the regular trading session or a trading halt, pause or suspension that required the Exchange to suspend trading in the subject security; within five minutes of the end of the regular trading session; during a SNAP Cycle; or within one minute after the completion of the previous SNAP Cycle. Also, similar to Article 1, Rule 2(h)(1)(A)(iv), proposed paragraph (c)(2) provides that the Exchange shall not initiate a SNAP Cycle if the CHX Routing Services, as described under Article 19, are not available at the time of the market snapshot taken pursuant to be proposed paragraph (b) above. Finally, similar to current Article 1, Rule 2(h)(1)(A)(ii), proposed paragraph (c)(3) provides that the Exchange shall not initiate a SNAP Cycle if the National Best Bid and Offer (''NBBO'') ascertained from the market snapshot taken pursuant to proposed paragraph (b) is crossed or a two-sided NBBO does not exist.

Incidentally, the Exchange proposes to amend current CHX Article 1, Rule 2(h)(1)(A)(iii) to replace a reference to ''trading halt or pause'' with the more accurate, ''trading halt, pause or suspension,'' as the Exchange had updated the CHX Rules previously to adopt this term change elsewhere in the CHX Rules.[25]

Examples

The following Examples 1 and 2 are illustrative of the proposed Exchange-initiated SNAP mechanism, but do not exhaustively depict every possible scenario. Moreover, the charts used herein are illustrative and do not necessarily depict the actual technical processes involved in sorting orders.

Example 1: Precedent Orders. Assume that at 10:59:58 a.m. the NBBO for security XYZ is $99.99 × $100.01 and Protected Quotations of external markets in security XYZ are as follows:

- *Protected Bid A* at Exchange 1 displaying 500 shares at $99.99
- *Protected Offer A* at Exchange 2 displaying 1000 shares at $100.01.

Assume also that the CHX book is empty, but that the Exchange receives the following orders in security XYZ at 10:59:59 a.m.:

- *Buy Order A* for 500 shares priced at $99.98/share marked Do Not Display.[26]
- *Buy Order B* for 500 shares priced at $100.01/share marked SNAP AOO—Day.
- *Buy Order C* for 1,000 shares marked SNAP AOO—Day and SNAP AOO—Pegged—Midpoint.
- *Sell Order A* for 3,000 shares priced at $99.98/share marked SNAP AOO—Day.

Under this Example 1, Buy Order A would be immediately posted to the CHX book and ranked in the CHX book pursuant to current Article 20, Rule 8(b)(1)(A)–(C), whereas Buy Orders B and C and Sell Order A would be placed in the SNAP AOO Queue, pursuant to Article 20, Rule 8(b)(2)(A), and not immediately ranked, as SNAP AOOs are never active during the Open Trading State.

Example 2: Pro forma SNAP review. Assume the same as Example 1. Assume also that at 11:00:00 a.m., the Exchange conducts a *pro forma* SNAP review of security XYZ and that the NBBO, CHX book and SNAP AOO Queue for security XYZ has not changed.

Under this Example 2, pursuant to proposed Article 18, Rule 1A(b), the Exchange would take a market snapshot of the Protected Quotations of external markets in security XYZ and then create a *pro forma* SNAP CHX book based on the contents of the CHX book (*i.e.,* Buy Order A), SNAP AOO Queue (*i.e.,* Buy Orders B and C and Sell Order A) and the Protected Quotations of external markets (*i.e.,* Protected Bid A and Protected Offer A). Thus, the *pro forma* SNAP CHX book in security XYZ would be as follows:

[23] The Exchange notes that the aggregate size of the stage three SNAP executions may be substantially *larger* than the PES due to, among other things, the possibility of new orders being received during the stage two Order Acceptance Period. *See supra* note 3; *see also* CHX Article 18, Rule 1(b)(2).

[24] Since order cancellations are prohibited during a SNAP Cycle, the liquidity at the Exchange ascertained from the *pro forma* SNAP review would always be available by the stage three market snapshot if a SNAP Cycle were initiated by the Exchange. *See supra* note 3; *see also* CHX Article 18, Rule 1(b)(2)(C)(i).

[25] *See* Securities Exchange Act No. 76262 (October 26, 2015), 80 FR 67440 (November 2, 2015) (SR–CHX–2015–05); *see also supra* note 3.

[26] *See* CHX Article 1, Rule 2

PRO FORMA SNAP CHX BOOK—EXAMPLE 2

Buy orders				Price point	Sell orders			
Total *away* buy size *at* price point	Total *CHX* buy size *at* price point	Total buy size *better* than price point	Total buy size *at and better* than price point		Total sell size *at and better* than price point	Total sell size *better* than price point	Total *CHX* sell size *at* price point	Total *away* sell size *at* price point
0	0	0	0	100.02	4000	4000	0	0
0	500	0	500	100.01	4000	3000	0	1000
0	1000	500	1500	100.00 (Midpoint)	3000	3000	0	0
500	0	1500	2000	99.99	3000	3000	0	0
0	500	2000	2500	99.98	3000	0	3000	0

Based on this *pro forma* SNAP CHX book, the Matching System would calculate a *pro forma* SNAP Price, pursuant to proposed Article 18, Rule 1A(b). Pursuant to current Article 1, Rule 1(rr), the SNAP Price is a single price at which the greatest number of shares may be executed during a SNAP Cycle, which would not trade-through any more aggressively priced orders on either side of the market. Under this Example 2, the *pro forma* SNAP Price would be $99.98 with a PES of 2500 shares.

Pursuant to proposed Article 18, Rule 1A(b)(1), the Exchange would then determine if the PES at the *pro forma* SNAP Price is equal to or greater than the corresponding minimum PES, as described under proposed Article 18, Rule 1A(d). Since the PES is 2,500 shares and the NBBO midpoint is $100.00, the aggregate notional value for this PES would be $250,000, which meets the minimum PES requirement of 2,500 shares and an aggregate notional value of $250,000.

Pursuant to proposed Article 18, Rule 1A(b)(2), the Exchange would also determine whether the PES within the Matching System at the *pro forma* SNAP Price is at least 80% of the minimum PES. Since the PES within the Matching System of 2,000 shares (*i.e.,* 2,500 total PES − 500 away PES = 2,000) is exactly 80% of the corresponding minimum PES of 2,500, this requirement is met.

Thus, the Exchange would initiate a SNAP Cycle in security XYZ and conduct the SNAP Cycle pursuant to current Article 18, Rule 1(b).

Operative Date

In the event the proposed rule change is approved by the SEC, the Exchange proposes to make the proposed rule change operative pursuant to one week notice by the Exchange to its Participants. Prior to the operative date, the Exchange will ensure that policies and procedures are in place to allow Exchange operations personnel to effectively monitor the operation of the proposed Exchange-initiated SNAP mechanism.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act in general,[27] and furthers the objectives of Section 6(b)(5) in particular,[28] in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments and perfect the mechanisms of a free and open market, and, in general, to protect investors and the public interest.

In addition to the reasons stated under the original SNAP rule filing,[29] the Exchange believes that proposed Exchange-initiated SNAP mechanism will promote just and equitable principles of trade because it will promote bulk executions resulting from, among other things, SNAP AOOs that may remain unexecuted if the Exchange were not to receive a valid Start SNAP order that would trigger a SNAP Cycle. The Exchange believes that promoting such bulk executions will enhance market liquidity and the price discovery process for all securities, which protects investors and the public interest.

Also, the Exchange believes that the proposed rule change would promote just and equitable principles because the proposed Exchange-initiated SNAP mechanism will further minimize any information leakage that would result from SNAP executions. Currently, SNAP Cycles could only be initiated upon receipt of a valid Start SNAP order, which must meet certain size and pricing requirements. However, with the adoption of the proposed Exchange-initiated SNAP mechanism, SNAP executions may result even without receipt of a Start SNAP order. Thus, the proposed rule change will further minimize any information leakage from SNAP executions, as a market participant will not be able to discern with certainty which initiating mechanism triggered a given SNAP Cycle. Under either initiation scenario, market participants would continue to know that resting liquidity of a substantial size exists at the Exchange when a SNAP Cycle is initiated.

Moreover, the Exchange believes the proposed rule change furthers the objectives of Section 6(b)(1) [30] in that the proposed amendment to current Article 1, Rule 2(h)(1)(A)(iii) to replace a reference to ''trading halt or pause'' with ''trading halt, pause or suspension'' would result in consistent references to ''trading halt, pause or suspension'' throughout the CHX Rules, which would further enable the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its Participants and persons associated with its Participants, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange.

The Exchange notes that the proposed rule change does not implicate Regulation NMS or Regulation SHO considerations as the proposed Exchange-initiated SNAP mechanism is based on a *pro forma* SNAP review that does not involve displaying, executing or routing any orders. If the *pro forma* SNAP review were to trigger a SNAP Cycle, the SNAP Cycle would be conducted in compliance with Regulation NMS and Rule 201 of Regulation SHO, as described under current CHX rules and applicable exemptive relief.[31]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes that any

[27] 15 U.S.C. 78f(b).

[28] 15 U.S.C. 78f(b)(5).

[29] *See supra* note 3.

[30] 15 U.S.C. 78f(b)(1).

[31] *See supra* note 3; *see also* Letter from Josephine Tao, Assistant Director, Securities and Exchange Commission (the ''Commission'' or ''SEC''), Division of Trading and Markets, to Albert J. Kim, Vice President and Associate General Counsel, CHX, dated October 6, 2015.

burden on competition is necessary and appropriate in furtherance of the purposes of Section 6(b)(5) of the Act because it enhances and promotes the frequency of SNAP Cycles, which is a functionality that seeks to deemphasize speed as a key to trading success in order to further serve the interests of investors, as recently noted by Chair White, and thereby removes impediments and perfects the mechanisms of a free and open market.[32]

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CHX–2016–01 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–CHX–2016–01. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange and on its Internet Web site at *www.chx.com.* 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–CHX–2016–01, and should be submitted on or before April 5, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–05752 Filed 3–14–16; 8:45 am]

BILLING CODE 8011–01–P

[32] *See* Mary Jo White, Chair, Securities and Exchange Commission, Speech at Sandler O'Neil & Partners L.P. Global Exchange and Brokerage Conference (June 5, 2014).

[33] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77330; File No. SR–BATS–2016–26]

Self-Regulatory Organizations; Bats BZX Exchange, Inc. f/k/a BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees for Use of BATS Exchange, Inc.

March 9, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 1, 2016, Bats BZX Exchange, Inc. f/k/a BATS Exchange, Inc. (the ''Exchange'' or ''BZX'') 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 BZX Rules 15.1(a) and (c).

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify its fee schedule applicable to the Exchange's options platform to: (i) Modify the standard fees for both

[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).

Customer [6] and Non-Customer [7] orders that remove liquidity in Non-Penny Pilot Securities; [8] (ii) modify the standard fees for Customer orders that remove liquidity in Penny Pilot Securities; [9] (iii) amend the criteria necessary to meet and the rebate associated with the Customer Add Volume Tier 4; (iv) amend the criteria necessary to meet the Customer Step-Up Volume Tier; (v) add a new footnote 12 entitled Customer Non-Penny Pilot Add Volume Tier; and (vi) add a new Non-Customer Take Volume Tier under footnote 3.

Removing Liquidity in Non-Penny Pilot Securities

The Exchange is proposing to modify the standard fees for both Customer and Non-Customer orders that remove liquidity in Non-Penny Pilot Securities under fee codes NC and NP, respectively. Specifically, the Exchange is proposing to increase the standard fee for Customer orders that remove liquidity in Non-Penny Pilot Securities under fee code NC from $0.84 to $0.85 per contract and the standard fee for Non-Customer orders that remove liquidity in Non-Penny Pilot Securities under fee code NP from $0.89 to $0.94 per contract.

Customer Orders That Remove Liquidity in Penny Pilot Securities

The Exchange is proposing to modify the standard fees for Customer orders that remove liquidity in Penny Pilot Securities under fee code PC. Specifically, the Exchange is proposing to increase the standard fee for Customer orders that remove liquidity in Penny Pilot Securities under fee code PC from $0.46 to $0.48 per contract.

Customer Add Volume Tier 4

The Exchange is proposing to amend the criteria necessary to meet and the rebate associated with the Customer Add Volume Tier 4 under footnote 1, which currently provides Members with a rebate of $0.50 per contract for Customer orders that add liquidity in Penny Pilot Securities where the Member has an ADAV [10] equal to or greater than 0.85% of average TCV.[11] Specifically, the Exchange is proposing to amend Customer Add Volume Tier 4 such that a Member will receive a $0.52 rebate for Customer orders that add liquidity in Penny Pilot Securities where the Member has an ADAV in Customer orders equal to or greater than 1.00% of average TCV.

Customer Step-Up Volume Tier

The Exchange is proposing to amend the criteria necessary to meet the Customer Step-Up Volume Tier, which currently provides Members with a rebate of $0.53 per contract where the Member has an Options Step-Up Add TCV [12] in Customer orders from September 2015 baseline equal to or greater than 0.35%. Specifically, the Exchange is proposing to continue offering a rebate of $0.53 per contract where the Member has an Options Step-Up Add TCV in Customer orders from September 2015 baseline equal to or greater than 0.40%.

Customer Non-Penny Pilot Add Volume Tier

The Exchange is proposing to create a new footnote 12 entitled ''Customer Non-Penny Pilot Add Volume Tier,'' which would apply to orders that receive fee code NY. Under the proposed new tier, Customer orders that add liquidity in Non-Penny Pilot Securities would receive $1.00 per contract where the Member has an ADAV in Customer orders equal to or greater than 0.70% of average TCV.

New Non-Customer Take Volume Tier

The Exchange is proposing to add a new Non-Customer Take Volume Tier under footnote 3. Under the new Non-Customer Take Volume Tier 3, the Exchange would charge $0.47 per contract for a Non-Customer order to remove liquidity in Penny Pilot Securities where the Member has an ADAV in Customer orders equal to or greater than 1.00% of average TCV. In conjunction with this proposed change, the Exchange is proposing to change current Non-Customer Take Volume Tier 3 to Non-Customer Take Volume Tier 4.

Implementation Date

The Exchange proposes to implement these amendments to its fee schedule on March 1, 2016.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.[13] Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[14] in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls. 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.

Volume-based rebates such as those currently maintained on the Exchange have been widely adopted by equities and options exchanges and are equitable because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns, and introduction of higher volumes of orders into the price and volume discovery processes.

Removing Liquidity in Non-Penny Pilot Securities

The Exchange believes that its proposal to change the standard fee charged for Customer orders that remove liquidity in Non-Penny Pilot Securities from $0.84 to $0.85 per contract and the standard fee for Non-Customer orders that remove liquidity in Non-Penny Pilot Securities under fee code NP from $0.89 to $0.94 per contract is reasonable, fair and equitable and non-discriminatory, for the reasons set forth above with respect to volume-based pricing generally, because the change will apply equally to all participants, and because, while the change marks an increase in fees for orders in Non-Penny Pilot Securities, such proposed fees remain consistent with pricing previously offered by the Exchange as well as competitors of the Exchange and does not represent a significant departure from the Exchange's general pricing structure and will allow the Exchange to earn additional revenue that can be used to offset the addition of new pricing incentives, including those introduced as part of this proposal.

Customer Orders That Remove Liquidity in Penny Pilot Securities

The Exchange believes that its proposal to increase the standard fees for Customer orders that remove liquidity in Penny Pilot Securities from $0.46 to $0.48 per contract is

[6] As defined in the Exchange's fee schedule *available at http://www.batsoptions.com/support/fee_schedule/bzx/.*

[7] *Id.*

[8] *Id.*

[9] *Id.*

[10] *Id.*

[11] *Id.*

[12] *Id.*

[13] 15 U.S.C. 78f.

[14] 15 U.S.C. 78f(b)(4).

reasonable, fair and equitable and non-discriminatory, for the reasons set forth above with respect to volume-based pricing generally, because such change will apply equally to all participants, and because, while the change marks an increase in fees for such orders, such proposed fees remain consistent with pricing previously offered by the Exchange as well as competitors of the Exchange and does not represent a significant departure from the Exchange's general pricing structure and will allow the Exchange to earn additional revenue that can be used to offset the addition of new pricing incentives, including those introduced as part of this proposal.

Customer Add Volume Tier 4

The Exchange believes that its proposal to amend Customer Add Volume Tier 4 such that a Member will receive a $0.52 rebate for Customer orders that add liquidity in Penny Pilot Securities where the Member has an ADAV in Customer orders equal to or greater than 1.00% of average TCV is reasonable, fair and equitable and non-discriminatory, for the reasons set forth above with respect to volume-based pricing generally and because such change will apply equally to all participants and will incentivize such participants to further contribute to market quality on the Exchange. Moreover, the proposed change will provide Members with an increased incentive (increasing the rebate from $0.50 to $0.52 per contract) to add liquidity in Customer orders, which the Exchange not only believes will enhance market quality for all market participants, but will also encourage increased participation of Non-Customer orders wanting to interact with such Customer orders, further to the benefit of all market participants. The Exchange also believes that the proposed rebate remains consistent with pricing previously offered by the Exchange as well as competitors of the Exchange and does not represent a significant departure from the Exchange's general pricing structure.

Customer Step-Up Volume Tier

The Exchange believes that its proposal to increase the Options Step-Up Add TCV in Customer orders from September 2015 baseline to 0.40% in order to receive a rebate of $0.53 is reasonable, fair and equitable and non-discriminatory, for the reasons set forth above with respect to volume-based pricing generally and because such change will apply equal to all participants and incentivize such participants to further contribute to market quality on the Exchange. While the change will require Members to further increase their participation as compared to the September 2015 baseline in order to receive the same rebate, the Exchange believes that such proposed rebates remain consistent with pricing previously offered by the Exchange as well as competitors of the Exchange and does not represent a significant departure from the Exchange's general pricing structure and will act to incentivize such Members to increase participation on the Exchange, thereby enhancing liquidity and market quality on the Exchange for all participants. The Exchange also believes that the proposed rebate remains consistent with pricing previously offered by the Exchange as well as competitors of the Exchange and does not represent a significant departure from the Exchange's general pricing structure.

Customer Non-Penny Pilot Add Volume Tier

The Exchange believes that its proposal to create a new tier under which Customer orders that add liquidity in Non-Penny Pilot Securities would receive $1.00 per contract where the Member has an ADAV in Customer orders equal to or greater than 0.70% of average TCV is reasonable, fair and equitable and non-discriminatory, for the reasons set forth above with respect to volume-based pricing generally, because such change will apply equally to all participants, and because the change will incentivize such participants to further contribute to market quality on the Exchange. Moreover, the proposed change will provide Members with an increased incentive to add liquidity in Customer orders, which the Exchange not only believes will enhance market quality for all market participants, but will also encourage increased participation of Non-Customer orders wanting to interact with such Customer orders, further to the benefit of all market participants. The Exchange also believes that the proposed rebate remains consistent with pricing previously offered by the Exchange as well as competitors of the Exchange, in particular those of Nasdaq Options Market LLC, which currently offers a rebate of up to $1.00 for Customer orders in Non-Penny Pilot Securities, and does not represent a significant departure from the Exchange's general pricing structure.

New Non-Customer Take Volume Tier

The Exchange believes that its proposal to add a new tier under footnote 3 under which the Exchange would charge $0.47 per contract for a Non-Customer order to remove liquidity in Penny Pilot Securities where the Member has an ADAV in Customer orders equal to or greater than 1.00% of average TCV is reasonable, fair and equitable and non-discriminatory, for the reasons set forth above with respect to volume-based pricing generally, because such change will apply equally to all participants, and because the change will incentivize such participants to further contribute to market quality on the Exchange. Moreover, the proposed enhanced rebate will provide Members with an increased incentive to add liquidity in Customer orders, which the Exchange not only believes will enhance market quality for all market participants, but will also encourage increased participation of Non-Customer orders wanting to interact with such Customer orders, further to the benefit of all market participants. The Exchange also believes that the proposed fee remains consistent with pricing previously offered by the Exchange as well as competitors of the Exchange and does not represent a significant departure from the Exchange's general pricing structure. The Exchange also believes that the clarifying numbering change associated with this change is reasonable, fair and equitable and non-discriminatory because it is non-substantive and is designed to make sure that the fee schedule is as clear and easily understandable as possible.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed amendments to its fee schedule would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange has designed the proposed amendments to its fee schedule in order to enhance its ability to compete with other exchanges. Rather, the proposal as a whole is a competitive proposal that is seeking further the growth of the Exchange. The Exchange has structured the proposed fees and rebates to attract certain additional volume in both Customer and certain Non-Customer orders, however, the Exchange believes that its pricing for all capacities is competitive with that offered by other options exchanges. 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 change will impair the ability of Members or competing venues to

maintain their competitive standing in the financial markets. 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 to the Exchange's tiered pricing structure burdens competition, but instead, enhances competition as it is intended to increase the competitiveness of the Exchange. Also, the Exchange believes that the price changes contribute to, rather than burden competition, as such changes are broadly intended to incentivize participants to increase their participation on the Exchange, which will increase the liquidity and market quality on the Exchange, which will then further enhance the Exchange's ability to compete with other exchanges.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [15] and paragraph (f) of Rule 19b–4 thereunder.[16] 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:

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–2016–26 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–2016–26. 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–2016–26 and should be submitted on or before April 5, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–05751 Filed 3–14–16; 8:45 am]

BILLING CODE 8011–01–P

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77334; File No. SR–ISE Gemini–2016–02]

Self-Regulatory Organizations; ISE Gemini, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Limit Mandatory Participation in Scheduled Functional and Performance Testing Under Regulation SCI to Only Those Primary Market Makers That Meet Specified Criteria

March 9, 2016.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 26, 2016, ISE Gemini, LLC (the ''Exchange'' or the ''ISE Gemini'') filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 803, Obligations of Market Makers, to limit mandatory participation in scheduled functional and performance testing, under Regulation Systems Compliance and Integrity (''Regulation SCI''),[3] to those Primary Market Makers (''PMMs'') that contribute a meaningful percentage of the Exchange's overall volume, measured on a quarterly or monthly basis. The Exchange proposes to also consider other factors in determining the PMMs that will be required to participate in scheduled functional and performance testing of the Exchange's business continuity and disaster recovery plans (collectively ''DR Plans''), including average daily volume traded on the Exchange measured on a quarterly or monthly basis, or PMMs that collectively account for a certain percentage of market share on the Exchange or within a specific product. In addition, the Exchange proposes to publish the criteria to be used by the Exchange to determine which PMMs will be required to participate in such testing, and notify those PMMs that are required to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 73639 (November 19, 2014), 79 FR 72252 (December 5, 2014) (''SCI Adopting Release'').

participate based on such criteria. The text of the proposed rule change is available on the Exchange's Web site at *www.ise.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 these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On November 19, 2014, the Securities and Exchange Commission unanimously voted to adopt Regulation SCI, which is a set of rules designed to strengthen the technology infrastructure of the U.S. securities markets.[4] Specifically, the rules are designed to reduce the occurrence of systems issues, improve resiliency when systems problems do occur, and enhance the Commission's oversight and enforcement of securities market technology infrastructure.[5]

Regulation SCI applies to ''SCI entities,'' a term which includes SROs such as ISE Gemini. Regulation SCI requires SCI entities to, among other things, (1) establish written policies and procedures reasonably designed to ensure that their systems have levels of capacity, integrity, resiliency, availability, and security adequate to maintain their operational capability; (2) mandate participation by designated members in scheduled testing of the operation of their business continuity and disaster recovery plans, including backup systems, and to coordinate such testing on an industry- or sector-wide basis with other SCI entities; (3) take corrective action with respect to ''SCI events'' (such as systems disruptions, systems compliance issues, and systems intrusions), and to notify the Commission of such events; (4) disseminate information about certain SCI events to affected members and, for certain ''major'' SCI events, to all members; and (5) review their systems by objective, qualified personnel at least annually, to submit quarterly reports regarding completed, ongoing, and planned material changes to their SCI systems to the Commission, and to maintain certain books and records.[6]

In accordance with Rule 1004 of Regulation SCI, the Exchange amended Rule 803 and Rule 1903, which was incorporated by reference into ISE Gemini's Rulebook, in 2015 to designate all PMMs [7] and Linkage Handlers,[8] as the minimum necessary for the maintenance of a fair and orderly market should the Exchange's DR Plans be activated.[9] The Exchange also mandated participation by designated members in scheduled functional and performance testing of the operation of such DR Plans.[10]

The Exchange has reevaluated its designation of all PMMs as the minimum necessary for the maintenance of a fair and orderly market should the Exchange's DR Plans be activated and now believes that designating all PMMs is more than the minimum necessary to maintain a fair and orderly market should its DR Plans be activated. The Exchange proposes to revise Rule 803 and limit mandatory participation in scheduled functional and performance testing, under Regulation SCI and Rule 803, to those PMMs that contribute a meaningful percentage of the Exchange's overall volume, measured on a quarterly or monthly basis. The Exchange proposes to consider other factors in determining which PMMs will be required to participate in scheduled functional and performance testing, including average daily volume traded on the Exchange measured on a quarterly or monthly basis, or PMMs that collectively account for a certain percentage of market share on the Exchange or within a specific product. The Exchange represents that it will publish the criteria [11] to be used by the Exchange to determine which PMMs will be required to participate in such testing, and notify those PMMs that are required to participate based on such criteria.

The Exchange notes that it encourages all PMMs to connect to the Exchange's backup systems and to participate in testing of such systems. However, in revising the requirements in proposed Rule 803, the rule will subject only those PMMs to mandatory testing that the Exchange believes are, taken as a whole, the minimum necessary to maintain fair and orderly markets. The Exchange believes that designating PMMs to participate in mandatory testing because they, for example, account for a significant portion of the Exchange's overall volume or collectively account for a certain percentage of market share on the Exchange is a reasonable means to ensure the maintenance of a fair and orderly market on the Exchange should its DR Plans be activated.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act, and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of section 6(b) of the Act.[12] In particular, the proposal is consistent with section 6(b)(5) of the Act,[13] because it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes the proposed rule revision is consistent with the Exchange Act because it complies with Regulation SCI's requirements. ISE Gemini's proposed rule designates only those PMMs it determines are necessary for the maintenance of a fair and orderly market if the Exchange's DR Plans are activated. Additionally, the proposal will ensure that the PMMs necessary to ensure the maintenance of a fair and orderly market are properly designated consistent with Rule 1004 of Regulation SCI. Specifically, as proposed, the Exchange will adopt clear and objective

[4] *Id.*

[5] Division of Trading and Markets, Responses to Frequently Asked Questions Concerning Regulation SCI at *https://www.sec.gov/divisions/marketreg/regulation-sci-faq.shtml.*

[6] *Id.*

[7] A PMM posts two-sided continuous quotations in all of the options classes to which it is appointed and undertakes special responsibilities for maintaining fair and orderly markets. PMM memberships are represented by PMM Trading Rights. The options classes trading on ISE Gemini are divided into groups or ''bins'', each with one PMM. One PMM member may, however, represent more than one bin.

[8] A Linkage Handler is a broker that is unaffiliated with the Exchange with which the Exchange has contracted with to provide routing services, by routing certain orders, to other exchanges as agent in connection with the Options Order Protection and Locked/Crossed Market Plan. *See* .03 to Supplementary Material to Rule 1901.

[9] Securities Exchange Act Release No. 76331 (November 3, 2015), 80 FR 69266 (November 9, 2015), SR–ISE Gemini-2015–23 and .02 of Supplementary Material to Rule 803.

[10] *Id.*

[11] This criteria will be published by the Exchange, in a regulatory information circular, no later than the effective date of this rule filing.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

criteria with respect to the designation of PMMs that are required to participate in the testing of the Exchange's DR Plans, as well as appropriate notification regarding such designation. As set forth in the SCI Adopting Release, ''SROs have the authority, and legal responsibility, under section 6 of the Exchange Act, to adopt and enforce rules (including rules to comply with Regulation SCI's requirements relating to [business continuity and disaster recovery] testing) applicable to their members or participants that are designed to, among other things, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.'' [14] The Exchange believes that this proposal is consistent with such authority and legal responsibility.

B. Self-Regulatory Organization's Statement on Burden on Competition

This proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act because ISE Gemini is implementing the requirements of Regulation SCI.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act [15] and Rule 19b–4(f)(6) thereunder.[16] The Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing the proposed rule change, or such shorter time as designated by the Commission, as required by Rule 19b–4(f)(6).

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 to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form *http://www.sec.gov/rules/sro.shtml;* or
- Send an email to *rule-comments@sec.gov*. Please include File No. SR–ISE Gemini–2016–02 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–ISE Gemini–2016–02. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commissions Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE Gemini–2016–02 and should be submitted byApril 5, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–05755 Filed 3–14–16; 8:45 am]

BILLING CODE 8011–01–P

[14] *See* SCI Adopting Release, *supra* note 4 at 72350.

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(6).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77329; File No. SR–EDGX–2016–16]

Self-Regulatory Organizations; Bats EDGX Exchange, Inc. f/k/a EDGX 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 9, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 1, 2016, Bats EDGX Exchange, Inc. f/k/a EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') 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.

[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).

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 EDGX Rules 15.1(a) and (c).

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its fee schedule for its equity options platform (''EDGX Options'') to add three new tiers to its existing tiered pricing structure and also to adopt a new, incremental rebate per contract for orders that set or join the national best bid or offer (''NBBO''), as further described below. The Exchange proposes to make conforming changes to the Standard Rates and Fee Codes and Associated Fees Table in connection with these changes.

Changes to Tiered Pricing

The Exchange currently offers two pricing tiers under footnotes 1 and 2 of the fee schedule, Customer Volume Tiers and Market Maker Volume Tiers, respectively. Under the tiers, Members that achieve certain volume criteria may qualify for reduced fees or enhanced rebates for Customer [6] and Market Maker [7] orders. The Exchange proposes to add an additional Customer Volume Tier and two additional Market Maker Volume Tiers, as described below.

Additional Customer Volume Tier. Fee code PC and NC are currently appended to all Customer orders in Penny Pilot Securities [8] and Non-Penny Pilot Securities,[9] respectively and result in a standard rebate of $0.01 per contract. The Customer Volume Tiers in footnote 1 consist of four separate tiers, each providing an enhanced rebate to a Member's Customer orders that yield fee codes PC or NC upon satisfying monthly volume criteria required by the respective tier. The Exchange's current lowest Customer Volume Tier, current Tier 1, provides a rebate of $0.10 per contract where the Member has an ADV [10] in Customer orders equal to or greater than 0.20% of average TCV.[11] To encourage the entry of additional Customer orders to EDGX Options, the Exchange proposes to adopt a new Tier 1 with lower qualifying criteria. Specifically, under new Tier 1, the Exchange proposes to provide a rebate of $0.05 per contract where the Member has an ADV in Customer orders equal to or greater than 0.10% of average TCV.

In connection with this change, the Exchange proposes to re-number existing Tiers 1 through 4 as Tiers 2 through 5 and to update the Standard Rates table of the fee schedule to reflect the new potential rebate of $0.05 per contract for fee codes PC and NC.

Additional Market Maker Volume Tiers. Fee codes PM and NM are currently appended to Market Maker orders in Penny Pilot Securities and Non-Penny Pilot Securities, respectively and result in a standard fee of $0.19 per contract. The Market Maker Volume Tiers in footnote 2 consist of four separate tiers, each providing a reduced fee or a rebate to a Member's Market Maker orders that yield fee codes PM or NM upon satisfying monthly volume criteria required by the respective tier.

The Exchange's current lowest Market Maker Volume Tier, current Tier 1, provides a reduced fee of $0.16 per contract where the Member has an ADV in Market Maker orders equal to or greater than 0.05%. The next Market Maker Volume Tier, current Tier 2, provides a reduced fee of $0.07 per contract where the Member has an ADV in Market Maker orders equal to or greater than 0.30%. The Exchange proposes two new tiers with qualifying criteria that fall in between these two tiers. Specifically, proposed new Tier 2 would provide a reduced fee of $0.13 per contract where the Member has an ADV in Market Maker orders equal to or greater than 0.10% and proposed new Tier 3 would provide a reduced fee of $0.10 per contract where the Member has an ADV in Market Maker orders equal to or greater than 0.20%.

In connection with this change, the Exchange proposes to re-number existing Tiers 2 through 4 as Tiers 4 through 6 and to update the Standard Rates table of the fee schedule to reflect the new potential reduced fees of $0.13 and $0.10 per contract for fee codes PM and NM.

NBBO Setter/Joiner Tier

The Exchange also proposes to adopt enhanced rebates to incentivize aggressive quoting by Market Makers on EDGX Options. Specifically, the Exchange proposes to adopt a NBBO Setter/Joiner Tier that would provide an additional rebate of $0.02 per contract for any Market Maker order that adds liquidity and establishes a new NBBO or that joins the NBBO when EDGX Options is not already at the NBBO (the ''NBBO Setter/Joiner Rebate'').[12] The Exchange notes that while the specific details related to the proposed NBBO Setter/Joiner Rebate differ, the proposal to offer an enhanced rebate for orders that set the NBBO is consistent with a pricing incentive currently offered by the equity options platform operated by Bats BZX Exchange, Inc. (''BZX Options'').[13] The Exchange also notes that the cash equities platform operated by Bats BZX Exchange, Inc. (''BZX Equities'') has previously offered an

[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).

[6] The term ''Customer'' applies to any transaction identified by a Member for clearing in the Customer range at the Options Clearing Corporation (''OCC''), excluding any transaction for a Broker Dealer or a ''Professional'' as defined in Exchange Rule 16.1.

[7] The term ''Market Maker'' applies to any transaction identified by a Member for clearing in the Market Maker range at the OCC, where such Member is registered with the Exchange as a Market Maker as defined in Rule 16.1(a)(37).

[8] The term ''Penny Pilot Security'' applies to those issues that are quoted pursuant to Exchange Rule 21.5, Interpretation and Policy .01.

[9] The term ''Non-Penny Pilot Security'' applies to those issues that are not Penny Pilot Securities quoted pursuant to Exchange Rule 21.5, Interpretation and Policy .01.

[10] ''ADV'' means average daily volume calculated as the number of contracts added or removed, combined, per day.

[11] ''TCV'' means total consolidated volume calculated as the volume reported by all exchanges to the consolidated transaction reporting plan for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption and on any day with a scheduled early market close.

[12] An order that is entered at a price that sets the NBBO or causes EDGX Options to join the NBBO according to then current OPRA data will be determined to have set or joined the NBBO for purposes of the NBBO Setter/Joiner Rebate without regard to whether a more aggressive order is entered prior to the original order being executed.

[13] *See* the BZX Options' fee schedule *available at http://www.batsoptions.com/support/fee_schedule/bzx/.*

enhanced rebate for orders that join the NBBO.[14]

In connection with this change the Exchange proposes to append footnote 3 to fee codes NM and PM.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.[15] Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[16] in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls.

The Exchange believes its proposed fees and rebates are reasonable, fair and equitable, and non-discriminatory. The Exchange operates in a highly competitive market in which market participants may readily send order flow to many competing venues if they deem fees at the Exchange to be excessive. As a new options exchange, the proposed fee structure remains intended to attract order flow to the Exchange by offering market participants a competitive yet simple pricing structure. At the same time, the Exchange believes it is reasonable to incrementally adopt incentives intended to help to contribute to the growth of the Exchange.

Additional Customer Volume Tier and Market Maker Volume Tiers

Volume-based rebates such as those currently maintained on the Exchange have been widely adopted by options exchanges and are equitable because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns, and introduction of higher volumes of orders into the price and volume discovery processes. The proposed additional Customer Volume Tier and Market Maker Volume Tiers are intended to incentivize Members to send additional orders to the Exchange in an effort to qualify for the enhanced rebate available by the respective tier.

The Exchange believes that the proposed tiers are reasonable, fair and equitable, and non-discriminatory, for the reasons set forth with respect to volume-based pricing generally and because such change will incentivize participants to further contribute to market quality. The proposed tiers will provide additional ways for market participants to qualify for enhanced rebates or reduced fees. The Exchange also believes that the proposed tiered pricing structure is consistent with pricing previously offered by the Exchange as well as competitors of the Exchange and does not represent a significant departure from such pricing structures.

NBBO Setter/Joiner Tier

The Exchange also believes it is equitable, reasonable and not unfairly discriminatory to provide an enhanced rebate to Market Maker orders that either set the NBBO or join the NBBO when EDGX Options is not already at the NBBO. Similar to the pricing tiers discussed above, this incentive is reasonably related to the value to the Exchange's market quality associated with higher levels of market activity, including liquidity provision and the introduction of higher volumes of orders into the price and volume discovery processes. In particular, the enhanced rebate will encourage Market Maker orders at the NBBO, and is therefore directly focused on encouraging aggressively priced liquidity provision on EDGX Options. The proposed differentiation between Market Makers and other market participants recognizes the differing contributions made to the liquidity and trading environment on the Exchange by these market participants. Market Makers, unlike other market participants, have obligations to the market and regulatory requirements,[17] which normally do not apply to other market participants. A Market Maker has the obligation to make continuous markets, engage in course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and not make bids or offers or enter into transactions that are inconsistent with such course of dealings. On the other hand, other market participants do not have such obligations on the Exchange. For the same reasons, the Exchange believes it is reasonable to provide an additional incentive to Market Makers in the form of the proposed NBBO Setter/Joiner Rebate.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed amendments to its fee schedule would 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 the proposed change represents a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors. Rather, the proposal is a competitive proposal that is seeking to further the growth of the Exchange. The Exchange has structured the proposed fees and rebates to attract certain additional volume in Market Maker and Customer orders, however, the Exchange believes that its pricing for all capacities is competitive with that offered by other options exchanges. 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 change will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets. The Exchange does not believe that the proposed tiered pricing structure or NBBO Setter/Joiner Tier burden competition, but instead, that these incentives enhance competition as they are intended to increase the competitiveness of the Exchange by incentivizing certain participants to increase their participation on the Exchange.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [18] and paragraph (f) of Rule 19b–4 thereunder.[19] 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

[14] *See, e.g.,* Securities Exchange Act Release No. 70664 (October 11, 2013), 78 FR 62804, 62805 (October 22, 2013) (SR–BATS–2013–054) (proposing various modifications to fees including adoption of the ''NBBO Joiner'' incentive).

[15] 15 U.S.C. 78f.

[16] 15 U.S.C. 78f(b)(4).

[17] *See* Exchange Rule 22.5, Obligations of Market Makers.

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b-4(f).

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:

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–EDGX–2016–16 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–EDGX–2016–16. 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–EDGX–2016–16 and should be submitted on or before April 5, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–05750 Filed 3–14–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77335; File No. SR–ISE–2016–06]

Self-Regulatory Organizations; International Securities Exchange; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Limit Mandatory Participation in Scheduled Functional and Performance Testing Under Regulation SCI to Only Those Primary Market Makers That Meet Specified Criteria

March 9, 2016.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 26, 2016, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 803, Obligations of Market Makers, to limit mandatory participation in scheduled functional and performance testing, under Regulation Systems Compliance and Integrity (''Regulation SCI''),[3] to those Primary Market Makers (''PMMs'') that contribute a meaningful percentage of the Exchange's overall volume, measured on a quarterly or monthly basis. The Exchange proposes to also consider other factors in determining the PMMs that will be required to participate in scheduled functional and performance testing of the Exchange's business continuity and disaster recovery plans (collectively ''DR Plans''), including average daily volume traded on the Exchange measured on a quarterly or monthly basis, or PMMs that collectively account for a certain percentage of market share on the Exchange or within a specific product. In addition, the Exchange proposes to publish the criteria to be used by the Exchange to determine which PMMs will be required to participate in such testing, and notify those PMMs that are required to participate based on such criteria. The text of the proposed rule change is available on the Exchange's Web site at *www.ise.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 these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On November 19, 2014, the Securities and Exchange Commission unanimously voted to adopt Regulation SCI, which is a set of rules designed to strengthen the technology infrastructure of the U.S. securities markets.[4] Specifically, the rules are designed to reduce the occurrence of systems issues, improve resiliency when systems problems do occur, and enhance the Commission's oversight and enforcement of securities market technology infrastructure.[5]

Regulation SCI applies to ''SCI entities,'' a term which includes SROs such as ISE. Regulation SCI requires SCI entities to, among other things, (1) establish written policies and procedures reasonably designed to ensure that their systems have levels of capacity, integrity, resiliency, availability, and security adequate to maintain their operational capability; (2) mandate participation by designated

[20] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 73639 (November 19, 2014), 79 FR 72252 (December 5, 2014) (''SCI Adopting Release'').

[4] *Id.*

[5] Division of Trading and Markets, Responses to Frequently Asked Questions Concerning Regulation SCI at *https://www.sec.gov/divisions/marketreg/regulation-sci-faq.shtml.*

members in scheduled testing of the operation of their business continuity and disaster recovery plans, including backup systems, and to coordinate such testing on an industry- or sector-wide basis with other SCI entities; (3) take corrective action with respect to ''SCI events'' (such as systems disruptions, systems compliance issues, and systems intrusions), and to notify the Commission of such events; (4) disseminate information about certain SCI events to affected members and, for certain ''major'' SCI events, to all members; and (5) review their systems by objective, qualified personnel at least annually, to submit quarterly reports regarding completed, ongoing, and planned material changes to their SCI systems to the Commission, and to maintain certain books and records.[6]

In accordance with Rule 1004 of Regulation SCI, the Exchange amended Rules 803 and 1903 in 2015 to designate all PMMs[7] and Linkage Handlers,[8] as the minimum necessary for the maintenance of a fair and orderly market should the Exchange's DR Plans be activated.[9] The Exchange also mandated participation by designated members in scheduled functional and performance testing of the operation of such DR Plans.[10]

The Exchange has reevaluated its designation of all PMMs as the minimum necessary for the maintenance of a fair and orderly market should the Exchange's DR Plans be activated and now believes that designating all PMMs is more than the minimum necessary to maintain a fair and orderly market should its DR Plans be activated. The Exchange proposes to revise Rule 803 and limit mandatory participation in scheduled functional and performance testing, under Regulation SCI and ISE Rule 803, to those PMMs that contribute a meaningful percentage of the Exchange's overall volume, measured on a quarterly or monthly basis. The Exchange proposes to consider other factors in determining which PMMs will be required to participate in scheduled functional and performance testing, including average daily volume traded on the Exchange measured on a quarterly or monthly basis, or PMMs that collectively account for a certain percentage of market share on the Exchange or within a specific product. The Exchange represents that it will publish the criteria[11] to be used by the Exchange to determine which PMMs will be required to participate in such testing, and notify those PMMs that are required to participate based on such criteria.

The Exchange notes that it encourages all PMMs to connect to the Exchange's backup systems and to participate in testing of such systems. However, in revising the requirements in proposed Rule 803, the rule will subject only those PMMs to mandatory testing that the Exchange believes are, taken as a whole, the minimum necessary to maintain fair and orderly markets. The Exchange believes that designating PMMs to participate in mandatory testing because they, for example, account for a significant portion of the Exchange's overall volume or collectively account for a certain percentage of market share on the Exchange is a reasonable means to ensure the maintenance of a fair and orderly market on the Exchange should its DR Plans be activated.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act, and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of section 6(b) of the Act.[12] In particular, the proposal is consistent with section 6(b)(5) of the Act,[13] because it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes the proposed rule revision is consistent with the Exchange Act because it complies with Regulation SCI's requirements. ISE's proposed rule designates only those PMMs it determines are necessary for the maintenance of a fair and orderly market if the Exchange's DR Plans are activated. Additionally, the proposal will ensure that the PMMs necessary to ensure the maintenance of a fair and orderly market are properly designated consistent with Rule 1004 of Regulation SCI. Specifically, as proposed, the Exchange will adopt clear and objective criteria with respect to the designation of PMMs that are required to participate in the testing of the Exchange's DR Plans, as well as appropriate notification regarding such designation. As set forth in the SCI Adopting Release, ''SROs have the authority, and legal responsibility, under section 6 of the Exchange Act, to adopt and enforce rules (including rules to comply with Regulation SCI's requirements relating to [business continuity and disaster recovery] testing) applicable to their members or participants that are designed to, among other things, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.''[14] The Exchange believes that this proposal is consistent with such authority and legal responsibility.

B. Self-Regulatory Organization's Statement on Burden on Competition

This proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act because ISE is implementing the requirements of Regulation SCI.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its

[6] *Id.*

[7] A PMM posts two-sided continuous quotations in all of the options classes to which it is appointed and undertakes special responsibilities for maintaining fair and orderly markets. PMM memberships are represented by PMM Trading Rights. The options classes trading on the ISE are divided into groups or ''bins'', each with one PMM. One PMM member may, however, represent more than one bin.

[8] A Linkage Handler is a broker that is unaffiliated with the Exchange with which the Exchange has contracted with to provide routing services, by routing certain orders, to other exchanges as agent in connection with the Options Order Protection and Locked/Crossed Market Plan. *See* .03 to Supplementary Material to Rule 1901.

[9] Securities Exchange Act Release No. 76334 (November 3, 2015), 80 FR 69256 (November 9, 2015), SR–ISE–2015–35 and .02 of Supplementary Material to ISE Rule 803.

[10] *Id.*

[11] This criteria will be published by the Exchange, in a regulatory information circular, no later than the effective date of this rule filing.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] *See* SCI Adopting Release, *supra* note 4 at 72350.

terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act[15] and Rule 19b–4(f)(6) thereunder.[16] The Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing the proposed rule change, or such shorter time as designated by the Commission, as required by Rule 19b–4(f)(6).

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 to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form *http://www.sec.gov/rules/sro.shtml;* or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–ISE–2016–06 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–ISE–2016–06. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commissions Internet Web site *(http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2016–06 and should be submitted by April 5, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–05756 Filed 3–14–16; 8:45 am]

BILLING CODE 8011–01–P

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(6).

[17] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14661 and #14662]

Maryland Disaster #MD–00032

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Maryland (FEMA–4261–DR), dated 03/04/2016.

Incident: Severe Winter Storm and Snowstorm.

Incident Period: 01/22/2016 through 01/23/2016.

Effective Date: 03/04/2016.

Physical Loan Application Deadline Date: 05/03/2016.

Economic Injury (EIDL) Loan Application Deadline Date: 12/05/2016.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 03/04/2016, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Allegany, Anne Arundel, Baltimore, Baltimore City, Calvert, Caroline, Carroll, Cecil, Charles, Frederick, Garrett, Harford, Howard, Kent, Montgomery, Prince Georges, Queen Annes, Washington, Worcester.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere ...	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 14661B and for economic injury is 14662B.

(Catalog of Federal Domestic Assistance Numbers 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2016–05719 Filed 3–14–16; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 9480]

Notice of Reopening of Public Comment Period: Re-Consideration Concerning the Scope of Authorizations in a Presidential Permit Issued to Plains LPG Services, L.P., in May 2014 for Existing Pipeline Facilities on the Border of the United States and Canada Under the St. Clair River

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: On January 25, 2016, the Department of State (Department) published a Notice of Re-Consideration Concerning the Scope of Authorizations

in a Presidential Permit Issued to Plains LPG Services, L.P. in May 2014 for Existing Pipeline Facilities on the Border of the United States and Canada under the St. Clair River (Notice 81 FR 4081). The Department requested comment within 30 days of the publication date of the Notice, *i.e.,* February 24, 2016. The Department is reopening the public comment period for the Notice for an additional 30 days.

The Department's consideration of the Presidential Permit for the St. Clair pipeline facilities is pursuant to Executive Order (E.O.) 13337, which delegates to the Secretary of State the President's authority to receive applications for permits for the construction, connection, operation, or maintenance of a range of facilities at the borders of the United States, including pipelines for liquid petroleum products, and to issue or deny such Presidential Permits upon a national interest determination. The Department also is soliciting the views of concerned federal agencies. Consistent with E.O. 13337, the Department will determine whether issuance of a new Presidential Permit for pipeline border facilities, as discussed in the Notice (81 FR 4081), would serve the U.S. national interest.

DATES: Interested parties are invited to submit comments within 30 days of the publication date of this notice on *http://www.regulations.gov* with regard to whether issuing a new Presidential Permit for two of the St. Clair pipelines authorizing the transport of crude and other liquid hydrocarbons would serve the national interest. To submit a comment, go to *http://www.regulations.gov,* enter the title of this Notice into the search field and follow the prompts.

Comments are not private. They will be posted on the site. The comments will not be edited to remove identifying or contact information, and the Department cautions against including any information that one does not want publicly disclosed. The Department requests that any party soliciting or aggregating comments received from other persons for submission to the Department inform those persons that the Department will not edit their comments to remove identifying or contact information.

FOR FURTHER INFORMATION CONTACT: Office of Energy Diplomacy, Energy Resources Bureau (ENR/EDP/EWA) Department of State 2201 C St. NW., Ste. 4428, Washington, DC 20520, Attn: Sydney Kaufman, Tel: 202–647–2041. Email: *kaufmans@state.gov.*

SUPPLEMENTARY INFORMATION: Additional information concerning the St. Clair pipeline facilities can be found at *http://www.state.gov/e/enr/applicant/applicants/index.htm.* Documents related to the Department of State's review of the application for a Presidential Permit can be found at *http://www.state.gov/e/enr/applicant.*

Dated: March 9, 2016.

Chris Davy,

Deputy Director, Energy Resources Bureau, Energy Diplomacy, (ENR/EDP/EWA), Bureau of Energy Resources, U.S. Department of State.

[FR Doc. 2016–05836 Filed 3–14–16; 8:45 am]

BILLING CODE 4710–AE–P

DEPARTMENT OF STATE

[Delegation of Authority No. 392]

Delegation of the Functions and Authorities of the Ambassador-at-Large for War Crimes Issues to the Special Coordinator for Global Criminal Justice

By virtue of the authority vested in me by the laws of the United States, including the State Department Basic Authorities Act, as amended (22 U.S.C. 2651a) and 2113 of Title XXI, Public Law 110–53 (22 U.S.C. 8213, and to the extent authorized by law, I hereby delegate to the Special Coordinator for Global Criminal Justice all functions and authorities vested in the Ambassador-at-Large for War Crimes Issues.

Any act, manual, or procedure subject to, affected, or incorporated by, this delegation shall be deemed to be such act, manual, or procedure as amended from time to time.

This delegation of authority shall be in effect until revoked by competent authority. This delegation of authority does not revoke or otherwise affect any other delegation of authority currently in effect.

This document will be published in the **Federal Register**.

Dated: March 3, 2016.

John F. Kerry,

Secretary of State.

[FR Doc. 2016–05849 Filed 3–14–16; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice: 9481]

Additional Designation of North Korean Entities Pursuant to Executive Order 13382

AGENCY: Department of State.

ACTION: Designation of the Ministry of Atomic Energy Industry, the Academy of National Defense Science, the National Aerospace Development Administration, Choe Chun Sik, and Kang Mun Kil Pursuant to E.O. 13382, and Additional Identifying Information Concerning the Designated Entity Namchongang Trading Corporation.

SUMMARY: Pursuant to the authority in section 1(ii) of Executive Order 13382, ''Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters'', the Under Secretary of State for Arms Control and International Security, in consultation with the Secretary of the Treasury and the Attorney General, has determined that the North Korean entities Ministry of Atomic Energy Industry, Academy of National Defense Science, the National Aerospace Development Administration as well as the individuals Choe Chun Sik and Kang Mun Kil, have engaged, or attempted to engage, in activities or transactions that have materially contributed to, or pose a risk of materially contributing to, the proliferation of weapons of mass destruction or their means of delivery (including missiles capable of delivering such weapons), including any efforts to manufacture, acquire, possess, develop, transport, transfer or use such items, by any person or foreign country of proliferation concern. The Under Secretary of State for Arms Control and International Security, in consultation with the Secretary of the Treasury and the Attorney General, has also determined that the North Korean Namhung Trading Corporation is an alias of Namchongang Trading Corporation, which is designated pursuant to Executive Order 13382.

DATES: *Effective Dates:* The designation of and additional identifying information for the entities and individuals identified in this notice pursuant to Executive Order 13382 is effective upon publication of this notice.

FOR FURTHER INFORMATION CONTACT: Director, Office of Counterproliferation Initiatives, Bureau of International Security and Nonproliferation, Department of State, Washington, DC 20520, tel.: 202–647–5193.

Background

On June 28, 2005, the President, invoking the authority, *inter alia,* of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) (''IEEPA''), issued Executive Order 13382 (70 FR 38567, July 1, 2005) (the ''Order''), effective at 12:01 a.m. eastern daylight time on June 30, 2005. In the Order the President took additional steps with respect to the national emergency described and declared in

Executive Order 12938 of November 14, 1994, regarding the proliferation of weapons of mass destruction and the means of delivering them.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in the United States, or that hereafter come within the United States or that are or hereafter come within the possession or control of United States persons, of: (1) The persons listed in the Annex to the Order; (2) any foreign person determined by the Secretary of State, in consultation with the Secretary of the Treasury, the Attorney General, and other relevant agencies, to have engaged, or attempted to engage, in activities or transactions that have materially contributed to, or pose a risk of materially contributing to, the proliferation of weapons of mass destruction or their means of delivery (including missiles capable of delivering such weapons), including any efforts to manufacture, acquire, possess, develop, transport, transfer or use such items, by any person or foreign country of proliferation concern; (3) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, to have provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, any activity or transaction described in clause (2) above or any person whose property and interests in property are blocked pursuant to the Order; and (4) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, to be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to the Order.

Information on the additional designees is as follows:

Name: National Aerospace Development Administration

- AKA: NADA
- Location: North Korea

Name: Academy of National Defense Science

- Location: Pyongyang, DPRK

Name: Ministry of Atomic Energy Industry

- AKA: MAEI
- Location: Haeun-2-dong, Pyongchon District, Pyongyang, DPRK

Name: Choe Chun Sik

- AKA: Ch'oe Ch'un Sik
- Identifiers: DOB: 12 October 1954; Nationality: DPRK

Name: Kang Mun Kil

- AKA: Jiang Wen-ji
- Passport: PS 472330208; Passport Date of Expiration: 4 July 2017; Nationality: DPRK

Name: Namchongang Trading Corporation

- AKA: Namhung Trading Corporation
- AKA: Namhung
- Location: Chilgol, Mangyongdae District, Pyongyang, DPRK

Dated: March 1, 2016.

Rose Gottemoeller,

Under Secretary for Arms Control and International Security, Department of State.

[FR Doc. 2016–05847 Filed 3–14–16; 8:45 am]

BILLING CODE 4710–27–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1238X]

Wisconsin Chicago Link Ltd.—Discontinuance of Service Exemption—in Cook County, Ill.

Wisconsin Chicago Link Ltd. (WCLL), filed a verified notice of exemption under 49 CFR part. 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue service over two segments of rail line (the Line), consisting of approximately 4 miles of railroad in Chicago, Cook County, Ill. The first segment is leased by WCLL from Norfolk Southern Railway Company (NSR), the successor to Pennsylvania Lines LLC (PLLC). That leased segment extends between approximately milepost 309.8 (at a connection with CSX Transportation, Inc., by way of the Altenheim Subdivision of the Baltimore and Ohio Chicago Terminal Railroad Company at Ogden Junction near Rockwell Street), and approximately milepost 307.9 (600 feet north of the north bank of the Chicago Sanitary and Ship Canal, near the Ash Street Interlock). The second segment consists of roughly two miles of overhead trackage rights (incidental to the leased segment), extending south from milepost 307.9, which trackage rights were intended to facilitate present or future connections with other railroads. *Wis. Chi. Cent. Ltd.—Lease Exemption—Pa. Lines LLC,* FD 33831 (STB served Feb. 10, 2000). The Line traverses United States Postal Service Zip Codes 60608, 60609, and 60632.

WCLL has certified that: (1) No local traffic has moved over the Line for at least two years; (2) any overhead traffic can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line is pending either with the Surface Transportation Board or any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) to subsidize continued rail service has been received, this exemption will become effective on April 14, 2016, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA to subsidize continued rail service under 49 CFR 1152.27(c)(2) [1] must be filed by March 25, 2016.[2] Petitions to reopen must be filed by April 4, 2016, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to WCLL's representative: Robert A. Wimbish, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606.

If the verified notice contains false or misleading information, the exemption is void ab initio.

Because there will be an environmental review during an abandonment, this discontinuance does not require an environmental review.

Board decisions and notices are available on our Web site at ''*WWW.STB.DOT.GOV.*''

Decided: March 10, 2016.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2016–05815 Filed 3–14–16; 8:45 am]

BILLING CODE 4915–01–P

[1] Each OFA must be accompanied by the filing fee, which is currently set at $1,600. *See* 49 CFR 1002.2(f)(25).

[2] Because this is a discontinuance proceeding and not an abandonment, interim trail use/rail banking and public use conditions are not appropriate.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Eighteenth Meeting: RTCA Special Committee (223) Internet Protocol Suite (IPS)

AGENCY: Federal Aviation Administration (FAA), U.S. Department of Transportation (DOT).

ACTION: Notice of Eighteenth RTCA Special Committee 223 Meeting.

SUMMARY: The FAA is issuing this notice to advise the public of the Eighteenth RTCA Special Committee 223 Meeting.

DATES: The meeting will be held April 26–28, 2016 from 9:00 a.m.–5:00 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1150 18th Street NW., Suite 910, Washington, DC 20036, Tel: (202) 330–0662.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org* or Jennifer Iversen, Program Director, RTCA, Inc., *jiversen@rtca.org,* (202) 330–0662.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of RTCA Special Committee 223. The agenda will include the following:

Tuesday–Thursday, April 26–28, 2016

1. Welcome, Introductions, Administrative Remarks
2. Review RTCA Process Presentation
3. Review of the updated SC–223 Terms of Reference
4. Review of current State of Industry Standards
   a. ICAO WG–I
   b. AEEC IPS Sub Committee
5. Current State of Industry Activities
   a. SESAR Programs
   b. ESA IRIS Precursor
   c. Other
6. Develop Work Plan for SC–223
   a. Dependencies on other RTCA Special Committees
   b. Safety/Hazard Assessment Need
   c. Prioritized Action Plan
   d. Special Committee Structure
7. IPS Technical Discussions
8. Any Other Topics of Interest
9. Plans for Next Meetings

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Plenary information will be provided upon request. Persons who wish to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on March 10, 2016.

Latasha Robinson,

Management & Program Analyst, NextGen, Enterprise Support Services Division, Federal Aviation Administration.

[FR Doc. 2016–05822 Filed 3–14–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket Number NHTSA–2016–0027]

Reports, Forms, and Record Keeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for public comment on an extension of a currently approved collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extension and reinstatement of previously approved collections.

This document describes one collection of information for which NHTSA intends to seek OMB approval concerning vehicle safety features for consumer information purposes (OMB Control number 2127–0629).

DATES: Comments must be received on or before May 16, 2016.

ADDRESSES: You may submit comments to the docket number identified in the heading of this document by any of the following methods:

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

You may call the Docket Management Facility at 202–366–9826.

Instructions: For detailed instructions on submitting comments, see the Public Participation heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Complete copies of each request for collection of information may be obtained at no charge from Johanna Lowrie, U.S. Department of Transportation, NHTSA, Room W43–410, 1200 New Jersey Ave SE., Washington, DC 20590. Ms. Lowrie's telephone number is (202) 366–5269. Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation at 5 CFR 1320.8(d), an agency must ask for public comment on the following:

(i) 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;

(ii) 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;

(iii) How to enhance the quality, utility, and clarity of the information to be collected;

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.* in submission of responses).

In compliance with these requirements, NHTSA asks for public comment on the following proposed collection of information:

Title: Vehicle Information for the General Public.

OMB Control Number: 2127–0629.

Affected Public: Manufacturers that sell motor vehicles that have a Gross Vehicle Weight Rating (GVWR) of 10,000 pounds or less in the United States.

Abstract: NHTSA's mission is to save lives, prevent injury, and reduce motor vehicle crashes. Consumer information programs are an important tool for improving vehicle safety through market forces. For over 30 years, under its New Car Assessment Program, NHTSA has been providing consumers with vehicle safety information such as frontal and side crash results, crash avoidance performance test results, rollover propensity, and the availability of a wide array of safety features provided on each vehicle model. In addition, the agency has been using this safety feature information when responding to consumer inquiries and analyzing rulemaking petitions that requested the agency to mandate certain safety features.

The information collected annually by the agency includes the following:

- Vehicle make, model, body style, certification type, projected sales volume, availability date, etc.,
- Crashworthiness features (*i.e.,* adjustable upper belt anchorages, seat belt pretensioners, load limiters, etc.),
- Crash avoidance features (*i.e.,* lane departure warning, forward collision warning, blind spot detection, crash imminent braking, dynamic brake support systems, etc.),
- Automatic crash notification systems,
- Event data recorders,
- Automatic door locks (ADL),
- Anti-theft devices,
- Static Stability Factor (SSF) rating information,
- Lower Anchors and Tethers for Children (LATCH) restraint system, and
- Side air bag information that would include whether the side air bags meet the requirements from the Technical Working Group (TWG) on Out-of-Position occupants.

NHTSA has another information collection to obtain data related to motor vehicle compliance with the agency's Federal motor vehicle safety standards. Although the consumer information collection data is distinct and unique from the compliance data, respondents to both collections are the same. Thus, the consumer information collection is closely coordinated with the compliance collection to enable responders to assemble the data more efficiently. The burden is further made easier by sending out electronic files to the respondents in which the data is entered and electronically returned to the agency.

Estimated Annual Burden: 800 hours.

Number of Respondents: 21.

The consumer information collected will be used on the agency's *www.safercar.gov* Web site, in the ''Purchasing with Safety in Mind: What to look for when buying a new vehicle'' and ''Buying a Safer Car for Child Passengers'' brochures, in other consumer publications, as well as for internal agency analyses and response to consumer inquiries.

Comments are invited on: (1) Whether the existing collection of information is still necessary for the proper performance of the functions of the Department, including whether the information will have practical utility, (2) the accuracy of the Department's estimate of the burden of the existing information collection, (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 the use of automated collection techniques or other forms of information technology.

Public Participation

How do I prepare and submit comments?

Your comments must be written and in English. To ensure that your comments are filed correctly in the docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long (49 CFR 553.21). NHTSA established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

If you are submitting comments electronically as a PDF (Adobe) file, NHTSA asks that the documents submitted be scanned using an Optical Character Recognition (OCR) process, thus allowing the agency to search and copy certain portions of your submissions. OCR is the process of converting an image of text, such as a scanned paper document or electronic fax file, into computer-editable text.

Please note that pursuant to the Data Quality Act, in order for substantive data to be relied upon and used by the agency, it must meet the information quality standards set forth in the OMB and DOT Data Quality Act guidelines. Accordingly, we encourage you to consult the guidelines in preparing your comments. OMB's guidelines may be accessed at: *http://www.whitehouse.gov/omb/fedreg/reproducible.html.* DOT's guidelines may be accessed at: *http://dmses.dot.gov/submit/DataQualityGuidelines.pdf.*

How can I be sure that my comments were received?

If you submit your comments by mail and wish Docket Management to notify you upon its receipt of your comments, you may enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How do I submit confidential business information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Office of the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR part 512).

In addition, you may submit a copy (two copies if submitting by mail or hand delivery), from which you have deleted the claimed confidential business information, to the docket by one of the methods given above under **ADDRESSES**.

Will the agency consider late comments?

NHTSA will consider all comments received before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, the agency will also consider comments received after that date.

How can I read the comments submitted by other people?

You may read the materials placed in the Docket for this document (*e.g.,* the comments submitted in response to this document by other interested persons) at any time by going to *http://www.regulations.gov.* Follow the online instructions for accessing the dockets. You may also read the materials at the Docket Management Facility by going to the street address given above under **ADDRESSES**. The Docket Management Facility is open between 9 a.m. and 5

p.m. Eastern Time, Monday through Friday, except Federal holidays.

Authority: 44 U.S.C. 3506(c); delegation of authority at 49 CFR 1.50.

Issued on: March 8, 2016.

Raymond R. Posten,

Associate Administrator for Rulemaking.

[FR Doc. 2016–05768 Filed 3–14–16; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Tax Forms and Publications Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Tax Forms and Publications Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, April 14, 2016.

FOR FURTHER INFORMATION CONTACT: Donna Powers at 1–888–912–1227 or (954) 423–7977.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Tax Forms and Publications Project Committee will be held Tuesday, April 14, 2016, at 1:00 p.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Donna Powers. For more information please contact: Donna Powers at 1–888–912–1227 or (954) 423–7977 or write: TAP Office, 1000 S. Pine Island Road, Plantation, FL 33324 or contact us at the Web site: *http://www.improveirs.org.* The committee will be discussing various issues related to Tax Forms and Publications and public input is welcomed.

Dated: March 8, 2016.

Antoinette Ross,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2016–05741 Filed 3–14–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Special Projects Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Special Projects Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, April 5, 2016.

FOR FURTHER INFORMATION CONTACT: Kim Vinci at 1–888–912–1227 or 916–974–5086.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel Special Projects Committee will be held Tuesday, April 5, 2016, at 1:00 p.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Kim Vinci. For more information please contact: Kim Vinci at 1–888–912–1227 or 916–974–5086, TAP Office, 4330 Watt Ave, Sacramento, CA 95821, or contact us at the Web site: *http://www.improveirs.org.*

The agenda will include a discussion on various special topics with IRS processes.

Dated: March 8, 2016.

Antoinette Ross,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2016–05739 Filed 3–14–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Ruling 2000–35

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Ruling 2000–35, Automatic Enrollment in Section 403(b) Plans.

DATES: Written comments should be received on or before May 16, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to LaNita Van Dyke, at Internal Revenue Service, Room 6517, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Lanita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Automatic Enrollment in Section 403(b) Plans.

OMB Number: 1545–1694.

Form Number: Revenue Ruling 2000–35.

Abstract: Revenue Ruling 2000–35 describes certain criteria that must be met before an employee's compensation can be reduced and contributed to an employee's section 403(b) plan in the absence of an affirmative election by the employee.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Not-for-profit institutions, and state, local or tribal governments.

Estimated Number of Respondents: 200.

Estimated Time per Respondent: 1 hour, 45 minutes.

Estimated Total Annual Burden Hours: 175.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 23, 2016.

Tuawana Pinkston,

Supervisory Tax Analyst.

[FR Doc. 2016–05731 Filed 3–14–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Taxpayer Communications Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Taxpayer Communications Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, April 21, 2016.

FOR FURTHER INFORMATION CONTACT: Antoinette Ross at 1–888–912–1227 or (202) 317–4110.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Taxpayer Communications Project Committee will be held Thursday, April 21, 2016, at 3:00 p.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Antoinette Ross. For more information please contact: Antoinette Ross at 1–888–912–1227 or (202) 317–4110, or write TAP Office, 1111 Constitution Avenue NW., Room 1509—National Office, Washington, DC 20224, or contact us at the Web site: *http://www.improveirs.org.*

The committee will be discussing various issues related to Taxpayer Communications and public input is welcome.

Dated: March 8, 2016.

Antoinette Ross,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2016–05737 Filed 3–14–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8594

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8594, Asset Acquisition Statement.

DATES: Written comments should be received on or before May 16, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Kerry Dennis, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at *Kerry.Dennis@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Asset Acquisition Statement.

OMB Number: 1545–1021.

Form Number: 8594.

Abstract: Internal Revenue Code section 1060 requires reporting to the IRS by the buyer and seller of the total consideration paid for assets in an applicable asset acquisition. The information required to be reported includes the amount allocated to goodwill or going concern value. Form 8594 is used to report this information.

Current Actions: There have been no changes to the form. However, the agency has updated its estimated number of responses. Business burden is now being reported under 1545–0123, and individual burden is being reported under 1545–0074. Burden estimates for this collection (1545–1021) is for all other filers (estates, trusts, etc.). This change results in a decrease in overall burden hours.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals.

Estimated Number of Respondents: 1,310.

Estimated Time per Respondent: 16 hrs., 28 minutes.

Estimated Total Annual Burden Hours: 21,563.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 2, 2016.

Tuawana Pinkston,

IRS Reports Clearance Officer.

[FR Doc. 2016–05742 Filed 3–14–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Testimony or Production of Records in a Court or Other Proceeding.

DATES: Written comments should be received on or before May 16, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Martha R. Brinson, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Martha.R.Brinson@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Testimony or Production of Records in a Court or Other Proceeding.

OMB Number: 1545–1850.

Form Number: TD 9178.

Abstract: The final regulation replaces the existing regulation that establishes the procedures to be followed by IRS officers and employees upon receipt of a request or demand for disclosure of IRS records or information. The purpose of the final regulation is to provide specific instructions and to clarify the circumstances under which more specific procedures take precedence. The final regulation extend the application of the regulation to former IRS officers and employees as well as to persons who are or were under contract to the IRS. The final regulation affect current and former IRS officers, employees and contractors, and persons who make requests or demands for disclosure.

Current Actions: There is no change in the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations, Individuals and households, Not-for-Profit institutions, and Farms.

Estimated Number of Respondents: 1,400.

Estimated Time per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 1,400.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 4, 2016.

Tuawana Pinkston,

IRS Reports Clearance Officer.

[FR Doc. 2016–05732 Filed 3–14–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open meeting of the Taxpayer Advocacy Panel Taxpayer Assistance Center Improvements Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: The Taxpayer Advocacy Panel Taxpayer Assistance Center Improvements Project Committee will conduct an open meeting and will solicit public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, April 13, 2016.

FOR FURTHER INFORMATION CONTACT: Otis Simpson at 1–888–912–1227 or 202–317–3332.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel Taxpayer Assistance Center Improvements Project Committee will be held Wednesday, April 13, 2016, at 2:00 p.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Otis Simpson. For more information please contact: Otis Simpson at 1–888–912–1227 or 202–317–3332, TAP Office, 1111 Constitution Avenue NW., Room 1509—National Office, Washington, DC 20224, or contact us at the Web site: *http://www.improveirs.org.*

The committee will be discussing various issues related to the Taxpayer Assistance Centers and public input is welcomed.

Dated: March 8, 2016.

Antoinette Ross,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2016–05740 Filed 3–14–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 3468

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 3468, Investment Credit.

DATES: Written comments should be received on or before May 16, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to LaNita Van Dyke at Internal Revenue Service, Room 6517, 1111 Constitution Avenue NW., Washington, DC 20224, or or through the internet at *Lanita.VanDyke@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Investment Credit.

OMB Number: 1545–0155

Abstract: Form 3468 is used to compute Taxpayers' credit against their income tax for certain expenses incurred for their trades or businesses. The information collected is used by the IRS to verify that the credit has been correctly computed.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a current OMB approval.

Affected Public: Business or other for-profit.

Estimated Number of Responses: 15,345.

Estimated Time per Response: 34 hours, 36 minutes.

Estimated Total Annual Burden Hours: 530,937.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 23, 2016.

Tuawana Pinkston,

Supervisory Tax Analyst.

[FR Doc. 2016–05722 Filed 3–14–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Notices and Correspondence Project Committee

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Notices and Correspondence Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, April 27, 2016.

FOR FURTHER INFORMATION CONTACT: Theresa Singleton at 1–888–912–1227 or 202–317–3329.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel Notices and Correspondence Project Committee will be held Wednesday, April 27, 2016, at 12:00 p.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Theresa Singleton. For more information please contact: Theresa Singleton at 1–888–912–1227 or 202–317–3329, TAP Office, 1111 Constitution Avenue NW., Room 1509-National Office, Washington, DC 20224, or contact us at the Web site: *http://www.improveirs.org.*

The agenda will include a discussion on various letters, and other issues related to written communications from the IRS.

Dated: March 8, 2016.

Antoinette Ross,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2016–05736 Filed 3–14–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Toll-Free Phone Line Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Toll-Free Phone Line Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, April 20, 2016.

FOR FURTHER INFORMATION CONTACT: Linda Rivera at 1–888–912–1227 or (202) 317–3337.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Toll-Free Phone Line Project Committee will be held Wednesday, April 20, 2016, at 2:30 p.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Linda Rivera. For more information please contact: Ms. Rivera at 1–888–912–1227 or (202) 317–3337, or write TAP Office, 1111 Constitution Avenue NW., Room 1509—National Office, Washington, DC 20224, or contact us at the Web site: *http://www.improveirs.org.*

The committee will be discussing Toll-free issues and public input is welcomed.

Dated: March 8, 2016.

Antoinette Ross,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2016–05721 Filed 3–14–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

United States Mint

Amended Notification of Citizens Coinage Advisory Committee March 15, 2016, Public Meeting

ACTION: Notice.

SUMMARY: Notice is hereby given of a change in the meeting time and the addition of an agenda item for the public meeting of the Citizens Coinage Advisory Committee (CCAC) on March 15, 2016, which was published in the **Federal Register** on March 9, 2016.

Date: March 15, 2016

Time: 9:30 a.m. to 3:30 p.m.

Location: Conference Room A, United States Mint, 801 9th Street NW., Washington, DC 20220.

Subject: Review and discussion of candidate designs for the 2017 Boys Town Centennial Commemorative Coin Program; review of a proposed design for the 2017 American Eagle Platinum Proof Coin (20th Anniversary); review and discussion of candidate designs for the 2017 American Liberty High Relief Gold Coin and Silver Medal; and a discussion of themes for a proposed series of bronze national medals to accompany the 2017 World War I Commemorative Coin Program.

Interested persons should call the CCAC HOTLINE at (202) 354–7502 for the latest update on meeting time and room location.

In accordance with 31 U.S.C. 5135, the CCAC:

- Advises the Secretary of the Treasury on any theme or design proposals relating to circulating coinage, bullion coinage, Congressional Gold Medals, and national and other medals.
- Advises the Secretary of the Treasury with regard to the events, persons, or places to be commemorated by the issuance of commemorative coins in each of the five calendar years succeeding the year in which a commemorative coin designation is made.
- Makes recommendations with respect to the mintage level for any commemorative coin recommended.

FOR FURTHER INFORMATION CONTACT: William Norton, United States Mint Liaison to the CCAC; 801 9th Street NW., Washington, DC 20220; or call 202–354–7200.

Any member of the public interested in submitting matters for the CCAC's consideration is invited to submit them by fax to the following number: 202–756–6525.

Authority: 31 U.S.C. 5135(b)(8)(C).

Dated: March 9, 2016.

Richard A. Peterson,

Deputy Director for Manufacturing and Quality, United States Mint.

[FR Doc. 2016–05738 Filed 3–14–16; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

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Part II

Department of Transportation

Federal Highway Administration

23 CFR Part 490
National Performance Management Measures: Highway Safety Improvement Program; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 490

[Docket No. FHWA–2013–0020]

RIN 2125–AF49

National Performance Management Measures: Highway Safety Improvement Program

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to establish performance measures for State departments of transportation (State DOT) to use to carry out the Highway Safety Improvement Program (HSIP) and to assess the: Number of motor vehicle crash-related serious injuries and fatalities; number of serious injuries and fatalities of non-motorized users; and serious injuries and fatalities per vehicle miles traveled (VMT).

The FHWA issues this final rule based on section 1203 of the Moving Ahead for Progress in the 21st Century Act (MAP–21), which identifies national transportation goals and requires the Secretary to promulgate a rulemaking to establish performance measures and standards in specified Federal-aid highway program areas. The FHWA also considered the provisions in the Fixing America's Surface Transportation Act (FAST Act) in the development of this final rule. The HSIP is a Federal-aid highway program with the purpose of achieving a significant reduction in fatalities and serious injuries on all public roads, including non-State-owned public roads and roads on tribal lands.

DATES: This final rule is effective April 14, 2016. The incorporation by reference of certain publications listed in the regulation is approved by the Director of the Federal Register as of April 14, 2016.

FOR FURTHER INFORMATION CONTACT: Francine Shaw Whitson, Office of Infrastructure, (202) 366–8028, or Anne Christenson, Office of the Chief Counsel, (202) 366–0740, Federal Highway Administration, 1200 New Jersey Ave. SE., Washington, DC 20590. Office hours are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

The notice of proposed rulemaking (NPRM) published at 79 FR 13846 on March 11, 2014, and all comments received may be viewed online through: *http://www.regulations.gov.* Electronic retrieval help and guidelines are available on the Web site. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from the Office of the Federal Register's home page at: *http://www.federalregister.gov* and the Government Printing Office's Web site at: *http://www.gpo.gov.*

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I. Executive Summary

A. Purpose of the Regulatory Action

The MAP–21 (Pub. L. 112–141) and the FAST Act (Pub. L. 114–94) transform the Federal-aid highway program by establishing new performance management requirements to ensure that State DOTs and Metropolitan Planning Organizations (MPO) choose the most efficient investments for Federal transportation funds. Performance management refocuses attention on national transportation goals, increases the accountability and transparency of the Federal-aid highway program, and improves project decisionmaking through performance-based planning and programming. State DOTs will now be required to establish performance targets and assess performance in 12 areas [1] established by the MAP–21, and FHWA will assess [2] their progress toward meeting targets in 10 of these areas.[3] State DOTs that fail to meet or make significant progress toward meeting safety targets will be required to direct a portion of their HSIP funding toward projects that will improve safety.

This rule establishes the performance measures to carry out the HSIP and to assess serious injuries and fatalities on all public roads. This is the first of 3 rules that will establish performance measures for State DOTs and MPOs to use to carry out Federal-aid highway programs and assess performance in each of 12 areas. In addition, this rule establishes the process for State DOTs and MPOs to use to establish and report their safety targets, the process for State DOTs and MPOs to report on their progress for their safety targets, and the process that FHWA will use to assess whether State DOTs have met or made significant progress toward meeting safety targets.

This rule establishes regulations to more effectively evaluate and report on surface transportation safety across the country. These regulations will: Improve data by providing for greater consistency in the reporting of serious injuries; improve transparency by requiring reporting on serious injuries and fatalities through a public reporting system; enable targets and progress to be aggregated at the national level; require State DOTs to meet or make significant progress toward meeting their targets; and establish requirements for State DOTs that have not met or made significant progress toward meeting their targets. State DOTs and MPOs will be expected to use the information and data generated as a result of the new regulations to inform their transportation planning and programming decisionmaking and directly link investments to desired performance outcomes. In particular, FHWA expects that the new performance measures outlined in this rule will help State DOTs and MPOs make investment decisions that will result in the greatest possible reduction in fatalities and serious injuries. This regulation is also aligned with DOT support of the Toward Zero Deaths (TZD) vision, which has also been adopted by many State DOTs. While MAP–21 does not specify targets for agencies, per the authorizing statute, this performance measures system is an important step in measuring and holding accountable transportation agencies as they work toward the goal of eliminating traffic deaths and serious injuries. These regulations will also help provide FHWA the ability to better communicate a national safety performance story.

B. Summary of Major Provisions

In this rule, FHWA establishes the measures to be used by State DOTs to assess performance and carry out the HSIP; the process for State DOTs and MPOs to establish their safety targets; the methodology to determine whether State DOTs have met or made

[1] These areas are listed within 23 U.S.C. 150(c), which requires the Secretary to establish measures to assess performance or condition.

[2] 23 U.S.C. 148(i) and 23 U.S.C. 119(e)(7).

[3] Title 23, sections 119(e)(7), 148(i), and 167(j) require USDOT to assess significant progress in 10 of the 12 performance measure areas (5 for the NHPP, 4 for HSIP, and 1 for freight).

significant progress toward meeting their safety targets; and the process for State DOTs and MPOs to report on progress for their safety targets.

This final rule retains the majority of the major provisions of the NPRM but makes significant changes by (a) establishing a fifth performance measure to assess the number of combined non-motorized fatalities and non-motorized serious injuries and (b) revising the methodology for assessing whether a State has met or made significant progress toward meeting its targets. The FHWA updates these and other elements of the NPRM based on the review and analysis of comments received.

The FHWA establishes 5 performance measures to assess performance and carry out the HSIP: (1) Number of fatalities, (2) rate of fatalities per VMT, (3) number of serious injuries, (4) rate of serious injuries per VMT, and (5) number of combined non-motorized fatalities and non-motorized serious injuries. The FHWA sought comment on how a non-motorized measure could be included in this rulemaking and, in response to comments establishes the non-motorized measure included in this final rule. The measures will be calculated based on a 5-year rolling average.

In response to comments, FHWA has made changes to the process for assessing whether a State met or made significant progress toward meeting its targets based on whether the process would meet the following criteria: (a) Holds States to a higher level of accountability; (b) does not discourage aggressive targets; (c) supports the national goal to achieve a significant reduction in fatalities and serious injuries; (d) is fair and consistent/quantitative; (e) is simple/understandable/transparent; (f) is not based on historical trends; and (g) is associated with the targets. The FHWA adopts in this final rule that a State is determined to meet or make significant progress toward meeting its targets when four out of five targets are met or the outcome for the performance measure is better than the State's baseline safety performance for that measure.

This rule establishes the processes for State DOTs and MPOs to establish their safety targets and to report on progress for their safety targets. State DOT targets shall be identical to the targets established by the State Highway Safety Office (SHSO) for common performance measures reported in the State's Highway Safety Plan (HSP). Targets established by the State DOTs will begin to be reported in the first HSIP annual report that is due after 1 year from the effective date of this final rule and then each year thereafter in subsequent HSIP annual reports. Once submitted in an HSIP report, approval from FHWA (and from the National Highway Transportation Safety Administration (NHTSA) for the common performance measures in the HSP) would be required to change a State's performance target for that year. However, the State will be free to establish new targets for subsequent years in the following year's HSIP report. States may choose to establish separate targets for any urbanized area within the State and may also choose to establish a single non-urbanized target for all of the non-urbanized areas in a State. These optional targets will not be included in assessing whether the State met or made significant progress toward meeting its targets.

The MPOs may choose between programing projects in support of all the State targets, establishing specific numeric targets for all of the performance measures (number or rate), or establishing specific numeric targets for one or more individual performance measures (number or rate) and supporting the State target on other performance measures. For MPOs with planning boundaries that cross State lines, the MPO must plan and program projects to contribute toward separate sets of targets—one set for each State in which the planning area boundary extends.

State DOTs that have not met or made significant progress toward meeting safety performance targets must: (1) Use a portion of their obligation authority only for HSIP projects and (2) submit an annual implementation plan that describes actions the State DOT will take to meet their targets. Both of these provisions will facilitate transportation safety initiatives and improvements and help focus Federal resources in areas where Congress has deemed a national priority.

State DOTs and MPOs are expected to use the information and data generated as a result of this new regulation to better inform their transportation planning and programming decisionmaking, and specifically to use their resources in ways that will result in the greatest possible reduction in fatalities and serious injuries.

The FHWA has decided to phase in the effective dates for the three final rules for these performance measures so that each of the three performance measures rules will have individual effective dates. This allows FHWA and the States to begin implementing some of the performance requirements much sooner than waiting for the rulemaking process to be complete for all the rules.

The FHWA also updates several other elements of the NPRM based on the review and analysis of comments received. Section references below refer to sections of the regulatory text for title 23 of the Code of Federal Regulations (CFR).

The FHWA adds a provision to incorporate by reference the Model Minimum Uniform Crash Criteria (MMUCC) Guideline, 4th Edition, and the ANSI D16.1–2007, Manual on Classification of Motor Vehicle Traffic Accidents, 7th Edition, in § 490.111 because MMUCC is used in the definition of the number of serious injuries and ANSI D16.1–2007 is used in the definition of non-motorized serious injuries. The FHWA also extends the time period proposed in the NPRM for States to adopt the MMUCC 4th Edition definition and attribute for ''Suspected Serious Injury (A)'' from 18 months (as proposed in the NPRM) to 36 months. The requirement to adopt revised future editions of MMUCC subsequent to the 4th Edition is removed.

The FHWA updates the list of definitions in § 490.205 to remove definitions no longer required and to add new definitions based on the revised methodology for determining whether a State has met or made significant progress toward meeting its performance targets. The FHWA also adds definitions to define explicitly the terms used in the new performance measures.

Section 490.207 establishes the safety performance measures State DOTs and MPOs shall use to assess roadway safety. State DOTs and MPOs shall measure serious injuries and fatalities per VMT, and the total numbers of both serious injuries and fatalities. In addition to those proposed in the NPRM, the FHWA adds a performance measure to assess the number of combined non-motorized fatalities and non-motorized serious injuries. Each of the performance measures use a 5-year rolling average. The exposure rate measures are calculated annually per 100 million VMT. Data for the fatality-related measures are taken from the Fatality Analysis Reporting System (FARS) and data for the serious injury-related measures are taken from the State motor vehicle crash database. The VMT are derived from the Highway Performance Monitoring System (HPMS). For MPOs that choose to establish a quantifiable rate target, the exposure data for serious injury and fatality rates are calculated annually per 100 million VMT from the MPO's

estimate of VMT that is consistent with other Federal reporting requirements, if applicable. The FHWA added the provision for MPO VMT estimates since the NPRM did not identify an appropriate source for MPO VMT, as it does not exist in the HPMS.

Section 490.209 describes the process State DOTs and MPOs shall use to establish their targets for each of the safety measures. The FHWA reduces the number of years of historical data that must be included in the HSIP report, consistent with changes to the methodology for assessing significant progress. In addition, FHWA revises the option for States to establish separate urbanized and non-urbanized area targets. Rather than allowing States to establish one additional urbanized area target for all urbanized areas within the State, the final rule allows State DOTs to select any number and combination of urbanized area boundaries and a single non-urbanized area for the establishment of additional targets. This change provides flexibility for States because the rule does not include optional urbanized and non-urbanized targets in the assessment of whether a State has met or made significant progress toward meeting its targets. The FHWA retains the requirement that the performance measures common to the State's HSP and the HSIP (number of fatalities, fatality rate, and number of serious injuries) be defined identically, as coordinated through the State Strategic Highway Safety Plan (SHSP).[4]

Section 490.211 establishes the method FHWA will use to assess whether State DOTs have met or have made significant progress toward meeting their safety performance targets in accordance with 23 U.S.C. 148(i). Based on review and analysis of comments, FHWA revises the method proposed in the NPRM. In this final rule, a State DOT is determined to have met or made significant progress toward meeting its targets when at least four of the five required performance targets are either met or the safety outcome for the performance measure has improved (*i.e.,* the number or rate of fatalities and/or serious injuries is less than the 5-year rolling average data for the performance measure for the year prior to the establishment of the State's target). The FHWA also reduces the time lag between when the State establishes the targets and when FHWA will assess whether the State has met or made significant progress toward meeting its targets. Instead of using Final FARS for all 5 years of data that comprise the rolling average, FHWA adopts the use of the FARS Annual Report File (ARF) if Final FARS data are not available. This approach allows FHWA to assess whether States met or made significant progress toward meeting their targets 1 year earlier than proposed in the NPRM. However, FHWA recognizes the timeframe for this determination remains lengthy. In order to accelerate the transparency that is one of the goals of the MAP–21, FHWA is in the process of creating a new public Web site to help communicate the national performance story. The Web site will likely include infographics, tables, charts, and descriptions of the performance data that the State DOTs would be reporting to FHWA. The FHWA will make publicly available postings of State performance statistics and other relevant data that relate to this performance measurement system as soon as the data are available.

The method by which FHWA will review performance progress of MPOs is discussed in the update to the Statewide and Metropolitan Planning regulation as described in 23 CFR part 450.

Section 490.213 identifies safety performance reporting requirements for State DOTs and MPOs. State DOTs establish and report their safety targets and progress toward meeting their safety targets in the annual HSIP report in accordance with 23 CFR part 924. As proposed in the NPRM, targets established by an MPO would be reported annually to their State DOT(s). The FHWA revises this section to require MPOs to report their established targets to the relevant State DOT(s) in a manner that is agreed upon and documented by both parties, rather than requiring the procedure be documented in the Metropolitan Planning Agreement. The MPOs report on progress toward the achievement of their targets in their System Performance Report as part of their transportation plan, in accordance with 23 CFR part 450.

C. Costs and Benefits

The FHWA estimated the incremental costs associated with the new requirements in this rule that represent a change to current practices for State DOTs and MPOs. The FHWA derived the costs of each of these components by assessing the expected increase in level of effort from labor to standardize and update data collection and reporting systems of State DOTs, as well as the increase in level of effort from labor to establish and report targets.

To estimate costs, FHWA multiplied the level of effort, expressed in labor hours, with a corresponding loaded wage rate that varied by the type of laborer needed to perform the activity. Following this approach the 10-year undiscounted incremental cost to comply with this rule is $87.5 million.

The final rule's 10-year undiscounted cost ($87.5 million in 2014 dollars) increased from the proposed rule ($66.7 million in 2012 dollars). The FHWA made several changes which affected cost. These changes include updating costs to 2014 dollars from 2012 dollars and updating labor costs to reflect current Bureau of Labor Statistics (BLS) data. In addition, FHWA revised the final rule Regulatory Impact Analysis (RIA) to reflect (1) updated local law enforcement census data, (2) costs associated with establishing the new non-motorized fatalities and non-motorized serious injuries performance measure, (3) the removal of the proposed requirement for State DOTs to compile a 10-year historical trend line, (4) the deferred implementation of MMUCC, 4th edition compliance, (5) added effort required for MPOs to estimate MPO-specific VMT for performance targets, (6) a decrease in the number of MPOs expected to establish quantifiable targets, (7) costs of coordinating on the establishment of targets in accordance with 23 CFR part 450, (8) an increase in the estimated number of States that might not meet or make significant progress toward meeting their targets using the new methodology included in the final rule, and (9) a decrease in the number of years States that do not meet or make significant progress toward meeting their targets will incur costs.

The FHWA expects that the rule will result in some significant benefits, although they are not easily quantifiable. Specifically, FHWA expects the rule will allow for more informed decisionmaking at a regional, State, and Federal level on safety-related project, program, and policy choices. The rule will increase focus on investments that will help to reduce fatalities and serious injuries. The rule also will yield greater accountability on how States and MPOs are using Federal-aid highway funds because of the MAP–21 requirements for mandated reporting that will increase visibility and transparency.

The FHWA could not directly quantify the expected benefits discussed above due to data limitations and the

[4] The MAP–21 requires State Highway Safety Offices to use the ''Traffic Safety Performance Measures for States and Federal Agencies'' (DOT HS 811 025) to establish performance measures and targets in the HSP. The MAP–21 further requires NHTSA to coordinate with GHSA in making revisions to the performance measures identified in the report. Accordingly, any changes to the common performance measures, such as changes to the 5-year rolling average, are subject to the GHSA coordination requirement in MAP–21.

amorphous nature of the benefits from the rule. Therefore, FHWA used a break-even analysis as the primary approach to quantify benefits. The FHWA focused its break-even analysis on reduction in fatalities or serious injuries needed in order for the benefits of the rule to justify the costs. The results of the break-even analysis quantified the dollar value of the benefits that the rule must generate to outweigh the threshold value, the estimated cost of the rule, which is $87.5 million in undiscounted dollars. The results show that the rule must prevent approximately 10 fatalities, or 199 incapacitating injuries, over 10 years to generate enough benefits to outweigh the cost of the rule. The FHWA believes that the benefits of this rule will surpass this threshold and, as a result, the benefits of the rule will outweigh the costs.

Relative to the proposed rule, both of the break-even thresholds increased in the final rule. For both fatalities and incapacitating injuries, the break-even points were affected by the increase in the undiscounted 10-year cost, as well as by an increase in the Value of Statistical Life (VSL) for fatalities, currently valued at $9,200,000, and the average cost per incapacitating injury, currently valued at $440,000.

The table below displays the Office of Management and Budget (OMB) A–4 Accounting Statement as a summary of the cost and benefits calculated for this rule.

OMB A–4 Accounting Statement

Category	Estimates			Units			Source/citation
	Primary	Low	High	Year dollar	Discount rate	Period covered	
Benefits							
Annualized Monetized ($ millions/year).	None	None	None	NA	7%	NA	Not Quantified.
	None	None	None	NA	3%	NA	
Annualized Quantified	None	None	None	NA	7%	NA	Not Quantified.
	None	None	None	NA	3%	NA	
Qualitative	The rule is cost-beneficial if over the 10-year analysis period it reduces the number of fatalities by 9.5 or the number of incapacitating injuries by 198.8, which is equivalently 1.0 fatality or 19.9 incapacitating injuries per year in a 10-year study period, from its current base case projection. Because of this low threshold, FHWA determines that the rule benefits outweigh the costs.						Final Rule RIA.
Costs							
Annualized Monetized ($/year)	$9,339,123			2014	7%	10 Years	Final Rule RIA.
	$9,015,871			2014	3%	10 Years	
Annualized Quantified	None	None	None	2014	7%	10 Years	Not Quantified.
	None	None	None	2014	3%	10 Years	
Qualitative	None.						
Transfers	None.						
From/To	From:			To:			
Effects							
State, Local, and/or Tribal Government.	$9,339,123			2014	7%	10 Years	Final Rule RIA.
	$9,015,871			2014	3%	10 Years	
Small Business	Not expected to have a significant impact on a substantial number of small entities.			NA	NA	NA	Final Rule RIA.

II. Acronyms and Abbreviations

Acronyms and Abbreviations Table

AASHTO	American Association of State Highway and Transportation Officials.
AMBAG	Association of Monterey Bay Area Governments.
AMPO	Association of Metropolitan Planning Organizations.
ARC	Atlanta Regional Commission.
ARF	Annual Report File.
ATSSA	American Traffic Safety Services Association.
BLS	Bureau of Labor Statistics.
Caltrans	California Department of Transportation.
CFR	Code of Federal Regulations.
CODES	Crash Outcome Data Evaluation System.
CY	Calendar Year.
DOT	U.S. Department of Transportation.
DVRPC	Delaware Valley Regional Planning Commission.
EO	Executive Order.
FARS	Fatality Analysis Reporting System.
FAST Act	Fixing America's Surface Transportation Act.
FHWA	Federal Highway Administration.

ACRONYMS AND ABBREVIATIONS TABLE—Continued

FMCSA	Federal Motor Carrier Safety Administration.
FR	Federal Register.
FY	Fiscal Year.
GHSA	Governor Highway Safety Association.
HIPPA	Health Insurance Privacy and Portability Act.
HPMS	Highway Performance Monitoring System.
HSIP	Highway Safety Improvement Program.
HSP	Highway Safety Plan.
IBR	Incorporation by reference.
IFR	Interim Final Rule.
KABCO	K, killed; A, disabling injury; B, evident injury; C, possible injury; O, no apparent injury.
LAB	League of American Bicyclists.
MAP–21	Moving Ahead for Progress in the 21st Century Act.
MARC	Mid-America Regional Council.
MIRE	Model Inventory of Roadway Elements.
MMUCC	Model Minimum Uniform Crash Criteria.
MPO	Metropolitan Planning Organizations.
NACCHO	National Association of County and City Health Officials..
NARA	National Archives and Records Administration.
NHTSA	National Highway Traffic Safety Administration.
NPRM	Notice of proposed rulemaking.
NTSB	National Transportation Safety Board.
NYMTC	New York Metropolitan Transportation Council.
NYSAMPO	New York State Association of Metropolitan Planning Organizations.
OMB	Office of Management and Budget.
PRA	Paperwork Reduction Act of 1995.
RIA	Regulatory Impact Analysis.
RIN	Regulatory Identification Number.
SANDAG	San Diego Association of Governments.
SBCAG	Santa Barbara County Association of Governments.
SCAG	Southern California Association of Governments.
SEMCOG	Southeast Michigan Council of Governments.
SHSO	State Highway Safety Office.
SHSP	Strategic Highway Safety Plan.
SRTA	Shasta Regional Transportation Agency.
SRTS	Safe Routes to Schools National Partnership.
State DOT	State Department of Transportation.
STIP	State Transportation Improvement Program.
STP	Surface Transportation Program.
TMA	Transportation Management Area.
TPM	Transportation Performance Management.
U.S.C.	United States Code.
VMT	Vehicle miles traveled.
VSL	Value of Statistical Life.

III. Background

On March 11, 2014, at 79 FR 13846, FHWA published an NPRM proposing the following: the definitions that will be applicable to the new 23 CFR part 490; the process to be used by State DOTs and MPOs to establish their safety-related performance targets that reflect the measures proposed in the NPRM; a methodology to be used to assess State DOTs' compliance with the target achievement provision specified under 23 U.S.C. 148(i); and the process State DOTs must follow to report on progress toward meeting or making significant progress toward meeting safety-related performance targets. The NPRM also included a discussion of the collective rulemaking actions FHWA intends to take to implement MAP–21 performance-related provisions. On May 28, 2014, at 79 FR 30507, FHWA extended the comment period on the NPRM from June 9, 2014, to June 30, 2014.

IV. Summary of Comments

The FHWA received 13,269 letters to the docket, including letters from 38 State DOTs, 27 local government agencies, more than 50 associations and advocacy groups, over 13,000 individuals and consultants, various other government agencies as well as 1 letter cosigned by 8 U.S. Senators. The FHWA has also reviewed and considered the implications of the FAST Act on the Safety Performance Management Final Rule.

Of all the letters to the docket, 99 percent specifically addressed bicycle and pedestrian safety issues or the need for a non-motorized performance measure. The FHWA received more than 11,000 verbatim duplicates of a letter written by the League of American Bicyclists (LAB) or a copy of the letter with additional commentary. Fifty-seven additional letters endorsed the LAB letter and provided additional comments. Smart Growth America submitted verbatim letters from 1,513 individuals and FHWA received 473 duplicate copies of letters supporting the Safety Routes to Schools National Partnership (SRTS) and 6 letters in support of America Walks. Another 84 letters from individuals provided comments focusing on bicycle/pedestrian issues without reference to specific organization letters.

Of the State DOT letters, 27 either (a) specifically mentioned their general or strong support for the first of two letters that the American Association of State Highway and Transportation Officials (AASHTO) submitted to the docket, (b) identified that they assisted with writing portions of the first AASHTO letter and were in general agreement with AASHTO's letter; and/or (c) stated

that they agreed with the letter and had additional comments specific to their State. Those included: Alaska, Arkansas, Colorado, Connecticut, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Montana, New Jersey, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, and Wyoming DOTs.

The FHWA carefully considered the comments received from the vast array of stakeholders. The comments, and summaries of FHWA's analyses and determinations, are discussed in the following sections.

Selected Topics for Which FHWA Requested Comments

In the NPRM, FHWA specifically requested comments or input regarding certain topics related to the safety performance measures rulemaking. Several of those have an overall impact on the regulatory language in this final rule, so are discussed in this section. The others are discussed in the Section-by-Section analysis.

Effective Date

In the NPRM, FHWA proposed to establish one common effective date for all three final rules for the performance measures established pursuant to 23 U.S.C. 150. The FHWA solicited comments on an appropriate effective date. While there were no comments suggesting a specific date, the American Traffic Safety Services Association (ATSSA) and Delaware DOT disagreed with the proposal for one effective date for all three rules for performance measures because fatalities and serious injuries are measured already, well known, and used in practice by virtually every State DOT. The commenters stated that especially with no firm timetable for the subsequent performance measure rulemakings, there is no reason to delay implementation of this congressional mandate to more effectively plan to save lives on our roadways. Michigan and Washington State DOTs and the Mid-America Regional Council (MARC) expressed support for one common effective date in order to reduce the burdens on States to manage multiple effective dates. Virginia DOT suggested that without knowing more about the other proposed performance measures it was premature to seek opinions on effective dates. Finally, in an Explanatory Statement accompanying the ''Consolidated and Further Continuing Appropriations Act, 2015,'' published in the Congressional Record,[5] Congress directs FHWA to publish its final rule on safety performance measures no later than September 30, 2015.

While FHWA recognizes that one common effective date could be easier for State DOTs and MPOs to implement, the process to develop and implement all of the Federal-aid highway performance measures required in MAP–21 has been lengthy. It is taking more than 3 years since the enactment of MAP–21 to issue all three performance measure NPRMs (the first performance management NPRM was published on March 11, 2014; the second NPRM[6] was published on January 5, 2015; and the third performance management NPRM[7] is expected to be published soon). Rather than waiting for all three rules to be final before implementing the MAP–21 performance measure requirements, FHWA has decided to phase in the effective dates for the three final rules for these performance measures so that each of the three performance measures rules will have individual effective dates. This allows FHWA and the States to begin implementing some of the performance requirements much sooner than waiting for the rulemaking process to be complete for all the rules. This approach would also implement the safety-related measures and requirements in this rule before the requirements proposed in the other two rules. Earlier implementation of the safety-related requirements in this rule is consistent with a DOT priority to improve the safety mission across the Department.[8] The FHWA also believes that a staggered approach to implementation (*i.e.,* implementing one set of requirements at the onset and adding on requirements over time) will better help States and MPOs transition to a performance-based framework.

The FHWA believes that States are in a position to begin to implement the safety Transportation Performance Management (TPM) requirements now for several reasons. Since 2010, SHSO have been establishing and reporting annual targets for safety performance measures. Since MAP–21 was enacted, FHWA and the NHTSA have encouraged State SHSOs to coordinate with State DOTs as their targets are established. States are familiar with the safety data sources necessary to establish their targets (FARS, State motor vehicle crash databases and HPMS) as these have been in place for many years. The FHWA documented in the NPRM its assessment that the safety measures were appropriate for national use and that FHWA was ready to implement the measures in an accurate, reliable, and credible manner, with a few gaps that were addressed in the NPRM. There were no comments countering this assessment. Although FHWA believes that individual implementation dates will help States and MPOs transition to performance based planning, to lessen any potential burden of staggered effective dates on States and MPOs, FHWA will provide guidance to States and MPOs on how to carry out the new performance requirements.

In addition to providing this guidance, FHWA is committed to providing stewardship to State DOTs and MPOs to assist them as they take steps to manage and improve the performance of the highway system. As a Federal agency, FHWA is in a unique position to utilize resources at a national level to capture and share strategies that can improve performance. The FHWA will continue to dedicate resources at the national level to provide technical assistance, technical tools, and guidance to State DOTs and MPOs to assist them in making more effective investment decisions. It is FHWA's intent to be engaged at a local and national level to provide resources and assistance from the onset to identify opportunities to improve performance and to increase the chances for full State DOT and MPO compliance of new performance related regulations. The FHWA technical assistance activities include conducting national research studies, improving analytical modeling tools, identifying and promoting best practices, preparing guidance materials, and developing data quality assurance tools.

Principles Considered in the Development of the Regulations for National Performance Management Measures Under 23 U.S.C. 150(c)

The FHWA listed nine principles in the NPRM preamble that were considered in the development of the

[5] Congressional Record, December 11, 2014, page H9978, *https://www.congress.gov/crec/2014/12/11/CREC-2014-12-11-bk2.pdf.*

[6] NPRM for the National Performance Management Measures; Assessing Pavement Condition for the National Highway Performance Program and Bridge Condition for the National Highway Performance Program 80 FR 326 (proposed January 5, 2015) *http://www.gpo.gov/fdsys/pkg/FR-2015-01-05/pdf/2014-30085.pdf.*

[7] NPRM for the National Performance Management Measures; Assessing Performance of the National Highway System, Freight Movement on the Interstate System, and Congestion Mitigation and Air Quality Improvement Program.

[8] *http://www.dot.gov/sites/dot.gov/files/docs/FY2016-DOT-BudgetHighlights-508.pdf.*

proposed regulation [9]. The FHWA encouraged comments on the extent to which the approach to performance measures set forth in the NPRM supported these principles. Commenters were supportive of both the principles and the approach to establishing the performance measures. The AASHTO, Connecticut DOT, and Tennessee DOT expressed support for the nine guiding principles, stating that they are appropriate and that the approaches set forth in the NPRM supported these guiding principles. The AASHTO suggested revisions seeking to clarify and underscore several of these principles, particularly providing flexibility to States in target establishment and ensuring adequate time to phase in requirements. Connecticut DOT echoed the need for flexibility in target establishment and phase in time. The New York State Association of Metropolitan Planning Organizations (NYSAMPO) expressed overall agreement with the principles and indicated that the proposed safety performance measure rule generally meets the intent of these principles. This commenter did, however, suggest that the NPRM did not fully realize the opportunity for ''increased accountability and transparency'' as it relates to the proposed methodology for determining whether States are making significant progress toward their performance targets and suggested this could be a ''black box'' analysis meant to obscure rather than inform. In addition, the NYSAMPO stated that it was not clear how the NPRM demonstrates an ''understanding that priorities differ.'' For example, improving safety in terms of reducing deaths and injuries for all users should be a high priority of both State DOTs and MPOs, but priorities may differ on modal issues, and trade-offs may need to be made with other national goals in a highly constrained funding environment.

Letters organized by Smart Growth America suggested that the proposed rulemaking did not meet the congressional intent of MAP–21. The commenters stated that without real targets and clearly defined measures of success, the proposed rules do not provide the necessary motivation to improve safety and reduce the number of fatalities and serious injuries suffered by motorized and non-motorized users.

The FHWA appreciates the comments on the guiding principles. Based on the general support of the principles, FHWA retains the principles in the development of this final rule. As outlined in the section-by-section discussion below, FHWA has made revisions to portions of the regulation to more closely match the principles, including adding an additional performance measure and the timing and methodology of the assessment of whether a State has met or made significant progress toward meeting its targets. The FHWA addresses AASHTO and Connecticut DOT concerns about providing flexibility to States in target establishment in the § 490.209 discussion of identical targets. In response to the NYSAMPO's comment on the principle of ''understanding that priorities differ'' and that States and MPOs need to make trade-offs, FHWA believes that this issue applies to the entire performance management program, not just this rule. The FHWA provides State DOTs and MPOs flexibilities to make performance trade-offs as they make target establishment and programming decisions in FHWA proposals for 23 CFR part 490.[10] The ''Statewide and Nonmetropolitan Transportation Planning; Metropolitan Transportation Planning'' NPRM (Planning NPRM) [11] further supports this principle because, as described in that proposal, the planning process brings all of the elements of a performance management framework (such as establishment of performance measures and targets and reporting requirements) together by linking decisionmaking and investment priorities to performance targets in areas like safety, infrastructure condition, traffic congestion, system reliability, emissions and freight movement. Trade-offs and establishing local and regional priorities are key elements of the TPM framework and a performance based planning process.

Separate Non-Motorized Performance Measures

In developing the NPRM, FHWA considered input from numerous sources in selecting the proposed measures to carry out the HSIP and for State DOTs and MPOs to use to assess safety performance. In the NPRM, FHWA explained that it received information from stakeholders before publishing the NPRM through listening sessions and letters, in which the stakeholders suggested that: FHWA account for the safety of all road users by including separate measures for motorized and non-motorized (*e.g.,* pedestrian, bicycle) transportation; that FHWA should define performance measures that specifically evaluate the number of fatalities and serious injuries for pedestrian and bicycle crashes; and that FHWA should require that bicycle and pedestrian crashes and fatalities be reported nationally and by States and MPOs. In addition, following the passage of MAP–21 and before the issuance of the NPRM, 15 Senators and 77 Members of the House of Representatives submitted letters to the Secretary of Transportation that expressed concern over rising bicyclist and pedestrian fatalities and suggested separate measures for motorized and non-motorized transportation should be established.

[9] Nine principles used in the development of proposed regulations for national performance management measures under 23 U.S.C. 150(c), *www.regulatons.gov,* Docket FHWA–2013–0020:

- Provide for a National Focus—focus the performance requirements on outcomes that can be reported at a national level.
- Minimize the Number of Measures—identify only the most necessary measures that will be required for target establishment and progress reporting. Limit the number of measures to no more than two per area specified under 23 U.S.C. 150(c).
- Ensure for Consistency—provide a sufficient level of consistency, nationally, in the establishment of measures, the process to set targets and report expectations, and the approach to assess progress so that transportation performance can be presented in a credible manner at a national level.
- Phase in Requirements—allow for sufficient time to comply with new requirements and consider approaches to phase in new approaches to measuring, target establishment, and reporting performance.
- Increase Accountability and Transparency—consider an approach that will provide the public and decisionmakers a better understanding of Federal transportation investment needs and return on investments.
- Consider Risk—recognize that risks in the target establishment process are inherent, and that performance can be impacted by many factors outside the control of the entity required to establish the targets.
- Understand that Priorities Differ—recognize that State DOTs and MPOs must establish targets across a wide range of performance areas, and that they will need to make performance trade-offs to establish priorities, which can be influenced by local and regional needs.
- Recognize Fiscal Constraints—provide for an approach that encourages the optimal investment of Federal funds to maximize performance but recognize that, when operating with scarce resources, performance cannot always be improved.
- Provide for Flexibility—recognize that the MAP–21 requirements are the first steps that will transform the Federal-aid highway program to a performance-based program and that State DOTs, MPOs, and other stakeholders will be learning a great deal as implementation occurs.

[10] NPRM for the National Performance Management Measures; Assessing Pavement Condition for the National Highway Performance Program and Bridge Condition for the National Highway Performance Program 80 FR 326, *http://www.gpo.gov/fdsys/pkg/FR-2015-01-05/pdf/2014-30085.pdf* and future proposed rulemaking regarding National Performance Management Measures; Assessing Performance of the National Highway System, Freight Movement on the Interstate System, and Congestion Mitigation and Air Quality Improvement Program.

[11] The Statewide and Nonmetropolitan Transportation Planning; Metropolitan Transportation Planning NPRM: *http://www.regulations.gov/#!documentDetail;D=FHWA-2013-0037-0001.*

The FHWA did not propose separate motorized and non-motorized performance measures in the NPRM, but requested comments on how DOT could address non-motorized performance measures in the final rule. In addition, FHWA requested input on the extent to which States and MPOs currently collect and report non-motorized data and the reliability and accuracy of such data, and how States and MPOs consider such data in their safety programs and in making their investment decisions. The FHWA desired to hear from stakeholders how non-motorized performance measures could be included in the final rule to better improve safety for all users.

The majority of the comment letters submitted to the docket can be directly attributed to the question of whether to include a non-motorized performance measure. The AASHTO and 23 State DOTs objected to creating a separate performance measure for non-motorized users. The AASHTO commented that safety measures should focus on all fatalities and serious injuries and not on emphasis areas, such as those for separate non-motorized users. Twenty-three States submitted letters to the docket either supporting AASHTO's comments or expressing individual objections to the separate inclusion of non-motorized measures: Alaska, California, Connecticut, Delaware, Florida, Georgia, Indiana, Iowa, Kentucky, Maine, Michigan, Minnesota, Missouri, Montana, New Jersey, North Dakota, Pennsylvania, Rhode Island, South Dakota, Tennessee, Texas, Vermont, and Utah. The AASHTO and these States suggested that focusing performance measures on a particular group, such as non-motorized users, would limit States' ability to use a comprehensive evaluation strategy and data-driven approach to determine where the investment of limited resources can most effectively save lives and reduce serious injuries. The AASHTO and Delaware, Iowa, Kentucky, Michigan, Minnesota, Montana, and Vermont DOTs, as well as the California State Association of Counties, objected to a separate performance measure because non-motorized users are already addressed in the HSP that SHSOs submit to NHTSA and which includes analyses of non-motorized (pedestrian and bicyclists) fatalities. They indicated that the emphasis on non-motorized safety should remain in the HSP, which allows each State to focus on its individual safety problems, while minimizing the number of performance measures in the HSIP that require target establishment, measurement, and reporting. Delaware and Minnesota DOTs noted that introducing additional performance measures would conflict with the second principle used to develop the proposed performance management regulations (*i.e.,* to minimize the number of measures). The AASHTO also noted that the option to require a non-motorized performance measure would be counter to several of the principles used to develop the performance measures, namely, to minimize the number of measures, understand that priorities differ, and provide for flexibility. The AASHTO, along with the Florida, Michigan, Montana, North Dakota, and Vermont DOTs argued that expanding performance measures by segregating specific types of fatalities and serious injuries at the national level would be inappropriate and contrary to MAP–21 and against States' desire to focus national performance efforts on a limited number of measures to implement 23 U.S.C. 150. Finally, many of these same commenters, as well as Texas DOT, pointed out that non-motorized exposure data are not sufficient to support these measures.

The Michigan DOT and AASHTO each submitted a letter after the close of the comment period, in reaction to the Explanatory Statement accompanying the ''Consolidated and Further Continuing Appropriations Act, 2015.'' These letters re-iterated earlier AASHTO comments, emphasizing that performance measures should not focus on particular issues, which would limit States' ability to use a comprehensive, data driven approach to improving safety; any non-motorized performance measure should be based on currently available data-counts of non-motorist fatalities and serious injuries that occur on public roadways and involve a motor vehicle; and non-motorized performance measures should not be included in the assessment of whether a State has met or made significant progress toward meeting its performance targets. Michigan DOT also suggested that if a non-motorized performance measure were required, fatality data should be combined with serious injury data to reduce the volatility of small data sets.

However, 99 percent of the letters submitted to the docket supported a non-motorized performance measure. Commenters who expressed support included letters organized by the LAB (11,175 commenters in general agreement), Smart Growth America (1,513 identical letters), and the SRTS (467 letters); as well as letters from Transportation for America, ATSSA, AARP, the American Heart Association, and 3 State DOTs (Oregon, Virginia, and Washington State). The Regional Transportation Council and the North Central Texas Council of Governments, Puget Sound MPO, Metropolitan Planning Organization for Portland, Oregon, and Fairbanks Metropolitan Area Transportation System all expressed support for a process to establish performance measures for non-motorized travel. These commenters expressed concern that while total roadway fatalities have been in decline over the past decade, non-motorized fatalities have been on the rise. Moreover, supporters of a non-motorized performance measure noted in their comments to the docket, that in 2012, 16 percent of all national roadway fatalities were non-motorized users and claim that less than 2 percent of HSIP funds were obligated on non-motorized projects. Specifically, the LAB, Smart Growth America, SRTS, Transportation Choices Coalition, Idaho Walks, Adventure Cycling, Washington Bikes, the National Association of Realtors, AARP, the National Association of County and City Health Officials (NACCHO), other advocacy groups and their supporters, and Nashville MPO believe Congress amended the HSIP in MAP–21 to clearly support projects, activities, plans, and reports for non-motorized safety. They state, for example, the HSIP was amended in MAP–21, in 23 U.S.C. 148(c)(2)(A)(vi) to improve the collection of data on non-motorized crashes, and 23 U.S.C. 148(d)(1)(B) requires that States address motor vehicle crashes that involve a bicyclist or pedestrian. The commenters concluded that HSIP funding is explicitly eligible for projects addressing the safety needs of bicyclists and pedestrians. The LAB comments addressed the concern in the NPRM that there may be ''too few'' recorded non-motorized fatalities to make a performance measure statistically valid or useful by noting that in 3 out of 5 States, non-motorized fatalities already make up more than 10 percent of their total fatalities.

Supporters of SRTS letters note that children and families should have the option to safely walk or bicycle to and from school, yet too many communities lack the basic infrastructure necessary to make that choice safe or possible. They argue that non-motorized measures would lead to improvements in this area, and, without this change, States will continue to overlook bicycle and pedestrian deaths, continue to spend HSIP funds nearly exclusively on motorized safety issues, and bicycle and

pedestrian deaths will continue to rise year after year. The Smart Growth America comments suggest that although data are not perfect, States already track non-motorized crashes and establishing targets would support significant safety improvements in the coming years.

A group of eight U.S. Senators also submitted a letter to the Secretary of Transportation expressing concern that the NPRM did not propose a measure for non-motorized users and encouraging the DOT to reevaluate the NPRM to address the safety of all public road users in the final rule by creating separate measures for motorized and non-motorized road users. Finally, the Explanatory Statement accompanying the ''Consolidated and Further Continuing Appropriations Act, 2015,'' published in the Congressional Record,[12] directs FHWA to ''establish separate, non-motorized safety performance measures for the [HSIP], define performance measures for fatalities and serious injuries from pedestrian and bicycle crashes, and publish its final rule on safety performance measures no later than September 30, 2015.''

The FHWA includes in this final rule a non-motorized safety performance measure. This measure is established after considering a broad range of alternatives to address non-motorized safety, while maintaining the data-driven nature of the HSIP and the TPM program overall.

For example, FHWA considered a requirement for States to simply report on non-motorized safety without further comment or evaluation. This requirement would meet the concerns of AASHTO and many State DOTs by not adding another performance measure and has the advantage of keeping the regulatory requirement for non-motorized transportation safety simple. The FHWA concluded, however, that requiring States only to report would not improve non-motorized transportation safety, particularly since, beginning with the Fiscal Year (FY) 2015 HSPs, States must include an additional core outcome measure and establish targets for bicycle fatalities [13] (complementing the core outcome measure and targets for the number of pedestrian fatalities measure, which has been included in the HSPs since FY 2010). Reporting non-motorized performance data in the HSIP reports would provide a visible, publicly accessible platform to demonstrate the progress States are making in improving non-motorized transportation safety. However, reporting alone will not result in the same level of accountability as performance targets. The FHWA believes any requirement should go beyond reporting, particularly since much of the information is already available in HSP reports, to have an impact on how infrastructure investment decisions are made in this performance area. As a result, a requirement for States to only report non-motorized performance data, without further comment or evaluation, is not adopted in the final rule.

The FHWA is aware that the magnitude and characteristics of non-motorized safety performance varies from State to State. Each State uses a data-driven approach to consider and account for its particular safety issues in its SHSP. Twenty-five States included pedestrians, bicyclists and/or vulnerable road users as emphasis areas in their SHSPs as of 2014. Therefore, FHWA contemplated establishing a threshold to identify only those States where non-motorized safety performance supports requiring a State to focus additional attention and action on non-motorized safety. The FHWA considered how to make the threshold data-driven so that a State in which non-motorized safety problems are not particularly high could focus attention and resources on aspects of safety that its data indicate is most important, but would require some States to establish targets for non-motorized safety. The FHWA considered a number of methodologies for establishing the threshold, including: (a) The national average of non-motorized fatalities, (b) the percent of a State's total fatalities and serious injuries, and (c) the non-motorized fatality rate by population. The FHWA also considered exempting States that demonstrated improvements in past non-motorized safety performance from assessment of the measure. Ultimately, FHWA determined that each methodology for establishing a threshold could be subject to criticism because the threshold is either too high—so not enough States are required to take action—or too low—including too many States. In keeping with FHWA's principle articulated in the NPRM to ''ensure for consistency,'' FHWA does not include a threshold to avoid different requirements for different States.

After reviewing the comments and information received that addressed the questions in the NPRM on how DOT could address a non-motorized performance measure, FHWA establishes in this final rule an additional safety performance measure: the number of combined non-motorized fatalities and non-motorized serious injuries in a State. This performance measure is not identical to the measures in the HSP, as the HSP includes separate measures for the number of pedestrian fatalities and the number of bicycle fatalities. The single non-motorized performance measure included in this final rule will be treated equal to the other 4 measures proposed in the NPRM and included in this final rule: (1) Total number of fatalities; (2) rate of all fatalities per 100 million VMT; (3) total number of serious injuries; and (4) rate of all serious injuries per 100 million VMT. All five safety performance measures are subject to the requirements of this rule, including establishing targets, reporting, and FHWA's assessment of whether a State has met or made significant progress toward meeting its targets.

The FHWA establishes the additional non-motorized performance measure to accomplish a number of objectives:

1. Encourage all States to address pedestrian and bicycle safety;
2. Recognize that walking and biking are modes of transportation with unique crash countermeasures distinct from motor vehicles; and
3. Address the increasing trend in the total number of pedestrian and bicyclist fatalities in the United States. These fatalities have shown a 15.6 percent increase from 4,737 in 2009 to 5,478 in 2013. In addition, the percentage of total fatalities involving non-motorists has increased from 13.3 percent in 2005 to 17.1 percent in 2013.[14]

Furthermore, establishing an additional non-motorized performance measure supports President Obama's 'Ladders of Opportunity'[15] priority. The Ladders of Opportunity program at DOT helps ensure that the transportation system provides reliable, safe, and affordable options for reaching jobs, education, and other essential services.[16] As part of DOT's program, the Secretary of Transportation has an initiative that focuses on making streets and communities safer for residents that do not or cannot drive. Through this

[12] Congressional Record, December 11, 2014, page H9978, *https://www.congress.gov/crec/2014/12/11/CREC-2014-12-11-bk2.pdf.*

[13] An additional core outcome measure for bicycle fatalities was added after NHTSA's publication of the Interim Final Rule (Uniform Procedures for State Highway Safety Grant Programs, Interim final rule, 78 FR 4986 (January 23, 2013) (to be codified at 23 CFR part 1200)), and is available at *http://www.ghsa.org/html/resources/planning/index.html.*

[14] *http://www.nhtsa.gov/FARS.*

[15] *http://www.whitehouse.gov/issues/urban-and-economic-mobility.*

[16] *http://www.dot.gov/briefing-room/secretary-foxx-announces-ladderstep-technical-assistance-program.*

initiative, DOT encourages transportation agencies to consider the needs and safety of pedestrians and bicyclists when planning highways. Establishing a non-motorized performance measure is consistent with these priorities and initiatives as it focuses more attention on transportation safety problems for some of those residents that do not or cannot drive.[17] It is also consistent with the Explanatory Statement accompanying the ''Consolidated and Further Continuing Appropriations Act, 2015.''

The addition of a non-motorized performance measure addresses the concerns of the majority of comments to the NPRM by requiring all States and MPOs to establish targets for non-motorized safety. It adds only one additional performance measure to the required set of safety measures, thereby still limiting the overall total number of measures, addressing a concern of AASHTO and some State DOTs. As part of the overall TPM framework, this additional performance measure increases the accountability and transparency of the Federal-aid highway program and allows for improved project decisionmaking with respect to non-motorized safety. The data used for this additional measure address State DOTs' and FHWA's concern about small numbers of non-motorized fatalities in some States by combining non-motorized fatalities and serious injuries together in one measure. The combined total of non-motorized fatalities and serious injuries is not insignificant in any State. This approach is supported by Michigan DOT's comments submitted after the close of the comment period. A single combined non-motorized fatality and serious injury performance measure reduces the additional burden for States and MPOs compared to two separate non-motorized performance measures.

The AASHTO and supporters of AASHTO's comments on this issue indicated that adding non-motorized performance measures to the overall safety performance measures could limit a State's ability to use a data-driven approach to decide where to invest limited resources and could distort the analysis of whether a State met or made significant progress toward meeting its non-motorized safety targets, since these fatalities and serious injuries would be counted in both sets of performance measures. The FHWA disagrees. The additional combined non-motorized fatality and serious injury performance measure will not ''double count'' non-motorized fatalities and serious injuries or distort the assessment of whether a State has met or made significant progress toward meeting its targets. Because this performance measure combines fatalities and serious injuries, it is different from the other safety performance measures. For example, when the number of non-motorized serious injuries increases in a State, the total number and rate of serious injuries may or may not increase as well. The impact of the increase in non-motorized serious injuries will be different on each of the three performance measures that include serious injuries: The number of serious injuries; the rate of serious injuries; and, the number of non-motorized fatalities and non-motorized serious injuries. The example below illustrates this point using data from Kansas (Table 1). The Kansas data are drawn from FARS, NHTSA's State Data System [18] (for serious injury data), and HPMS.

TABLE 1—KANSAS FATALITY AND SERIOUS INJURY DATA

Annual data	2005	2006	2007	2008	2009	2010	2011	2012
Non-Motorized Serious Injuries	105	98	91	79	88	95	97	104
Non-Motorized Fatalities	28	29	22	25	27	16	16	33
Total Non-Motorized Fatalities & Serious Injuries	133	127	113	104	115	111	113	137
Total Serious Injuries	1,874	1,746	1,811	1,709	1,670	1,717	1,581	1,592
Total Serious Injury Rate	6.33	5.78	6.03	5.75	5.66	5.74	5.27	5.21
VMT (per 100 Million)	296.21	302.15	300.48	297.27	294.97	299.00	300.21	305.72

5-Year rolling average data	2005–2009	2006–2010	2007–2011	2008–2012
Non-Motorized Fatalities & Serious Injuries	118.4	114.0	111.2	116.0
% Change		−3.72%	−2.46%	4.32%
Total Serious Injuries	1,762.0	1,730.6	1,697.6	1,653.8
% Change		−1.78%	−1.91%	−2.58%
Total Serious Injuries Rate	6.327	5.779	6.027	5.749
% Change		−8.66%	4.30%	−4.61%

In this example, the number of combined non-motorized fatalities and non-motorized serious injuries increases from the 2007–2011 5-year rolling average to the 2008–2012 average. In the same time frame, the serious injury number and serious injury rate measures both decrease. States will need to consider how their programs, projects, and strategies will impact the number of non-motorized serious injuries and factor that impact into their methodology for establishing their safety performance targets each year.

As noted in the comments by AASHTO and supporters of the AASHTO comments, FHWA recognizes that fatal and serious injury crashes involving only non-motorists (*e.g.,* a bicyclist crashing into a pedestrian) are not included in FARS or many State motor vehicle crash databases. There is no single national or State-by-State data source that includes fatal or serious injury crashes only involving non-motorists. Because FARS and the State motor vehicle crash databases already exist and are the data sources for the other safety performance measures, FHWA uses them as the data sources for the non-motorized performance measure. The FHWA recognizes that the calculation for the non-motorized performance measure may not include a small number of fatal and serious injury crashes involving only non-motorists

[17] Safer People, Safer Streets: Summary of U.S. Department of Transportation Action Plan to Increase Walking and Biking and Reduce Pedestrian and Bicyclist Fatalities, September 2014, *http://www.dot.gov/sites/dot.gov/files/docs/safer_people_safer_streets_summary_doc_acc_v1-11-9.pdf.*

[18] *http://www.nhtsa.gov/Data/State+Data+Programs/SDS+Overview.*

because FHWA is relying on these data sources. The AASHTO comments submitted after the close of the comment period support using FARS and State motor vehicle crash databases as the source for any potential non-motorized safety performance measure data, since other crashes may not be recorded. The AASHTO's position on this issue is thus consistent with the requirement in this rule.

The FHWA recognizes that non-motorized fatalities and non-motorized serious injuries will now be accounted for in more than one performance measure; however, FHWA believes that establishing this separate performance measure for the number of non-motorized fatalities and serious injuries will help States focus greater attention on the safety needs of these transportation users, can be accounted for in how the States and MPOs evaluate their data and select their investment priorities, and will contribute to decreases in the total number of fatalities and serious injuries.

The Consortium for People with Disabilities and America Walks suggested that FHWA consider including non-motorized and motorized wheelchairs and other mobility devices such as scooters in a performance measure. The FHWA agrees and defines the non-motorized performance measure to include the categories of persons classified as pedestrians and bicyclists as well as those using motorized and non-motorized wheelchairs and personal conveyances. The definition of the non-motorized performance measure is also consistent with 23 U.S.C. 217(j) which defines 'pedestrian' as ''. . . any person traveling by foot and any mobility impaired person using a wheelchair'' and defines 'wheelchair' as ''a mobility aid, usable indoors, and designed for and used by individuals with mobility impairments, whether operated manually or motorized.''

The 23 U.S.C. 150 stipulates that the Secretary establish ''measures for States to use to assess serious injuries and fatalities per VMT.'' The Atlanta Regional Commission (ARC), State of New York Department of Transportation, NYSAMPO, and several individuals commented that VMT is the wrong exposure variable for a rate-based measure for non-motorized modes. The New York agencies suggested that FHWA commence a research effort to determine the most appropriate method for calculating non-motorized based crash rates. Tennessee DOT indicated that it does not collect miles traveled for non-motorized users; however, some MPOs in Tennessee collect this information. Tennessee cautioned that this could cause unbalanced and nonmatching targets or goals. The MARC commented that it disaggregates crash data by non-motorized type through work with its regional transportation safety coalition. The MARC also indicated that it currently works with its State DOTs to collect and report non-motorized fatality and serious injury data and to obtain motorized VMT, but do not have similar rate data for non-motorized travel. Oregon and New York City DOT expressed support for creation of a non-motorized safety performance measure that would count the rate of fatalities for bicyclists and pedestrians compared to population, not VMT. The LAB, Smart Growth America, and other supporters of a non-motorized performance measure recognize that there is no national dataset for a non-motorized rate measure. These commenters argued that adopting a non-motorized safety performance measure would create the expectation and incentive to collect this data. The Michigan DOT and AASHTO, in comments submitted after the close of the comment period, reiterated that a rate-based measure for non-motorized users is not appropriate at this time.

The FHWA agrees that VMT is not an appropriate exposure metric for a non-motorized performance measure and that there is no consensus on a national or State-by-State data source for bicycling and walking activity upon which to determine a rate in this rule. As a result, FHWA does not include a rate-based non-motorized measure at this time. The DOT is committed to improving the quality of data on non-motorist transportation and is engaged in a broad range of data-related activities concerning non-motorist transportation.[19] This work, such as including guidance for collecting pedestrian and bicyclist count information in the most recent FHWA *Traffic Monitoring Guide*,[20] should help pave the way for better methods to estimate exposure to risk for pedestrians and bicyclists. The FHWA encourages States and MPOs to use these resources in order to develop and use exposure measures for non-motorized travel that will inform pedestrian and bicycle safety initiatives.

Met or Made Significant Progress Toward Meeting Targets Evaluation

In the NPRM, FHWA proposed a two-step process for determining whether a State met or made significant progress toward meeting its performance targets. The first step was to determine if each performance target had been met or if a State had made significant progress toward meeting each target based on a prediction interval around the projection of a historical trend line. The second step determined if a State had met or made significant progress toward meeting at least 50 percent of its performance targets, including optional targets. If they did, a State would be determined to have made ''overall significant progress.'' The FHWA specifically asked stakeholders to comment on the appropriateness of the trend line and prediction interval methodologies and whether 50 percent is the appropriate threshold for determining if a State had ''overall made significant progress'' toward meeting its performance targets.

The FHWA has evaluated the arguments made by commenters regarding the methodology for assessing whether a State DOT made significant progress, including the comment discussed earlier that the proposed methodology conflicted with the ''increased accountability and transparency'' principle, and has concluded that it is necessary and appropriate to revise this part of the regulation. The following summarizes the comments regarding the proposed significant progress methodology. In response to the comments below, FHWA developed a set of criteria to help develop and evaluate the methodology for assessing whether a State DOT made significant progress toward meeting its targets.

The AASHTO, New York Metropolitan Transportation Council, NYSAMPO, ARC, and Transportation for America expressed disagreement with what they considered to be a complex method for determining significant progress. Eight U.S. Senators, AARP, Adventure Cycling, ATSSA, America Walks, Boston Public Health Commission, California Walks, Living Streets Alliance, Rails-to-Trails Conservancy, Smart Growth America and SRTS and their supporters, Transportation for America, Tri-State Transportation Campaign (New York, New Jersey and Connecticut), and Walk Austin were among the commenters who suggested that States should be held to a higher level of accountability than meeting 50 percent of their targets for the ''overall significant progress'' determination proposed in the NPRM. The AASHTO, Delaware Valley Regional Planning Commission (DVRPC), NYSAMPO, Shasta Regional Transportation Agency (SRTA), and Delaware, Connecticut, Iowa, Kentucky,

[19] Information about on-going USDOT activities is available at *http://www.dot.gov/bicycles-pedestrians.*

[20] FHWA ''Traffic Monitoring Guide'': *http://www.fhwa.dot.gov/policyinformation/tmguide/.*

Missouri, New York, Ohio, Oregon, Pennsylvania, and Vermont State DOTs agreed with the 50 percent threshold; while MARC and Arkansas, Illinois, Louisiana, New York, Pennsylvania, and South Dakota DOTs specifically expressed a desire to account for unique or extenuating circumstances. The ATSSA, NACCHO, Smart Growth America, Transportation Choices Coalition, and Transportation for America argued that meeting only 50 percent of targets is not stringent enough and expressed strong support for significant progress to be defined as meeting at least 75 percent of targets. Further, this group of commenters called for a methodology that is simplified, not based on historical trend lines, and that holds States more accountable for reducing fatalities and serious injuries by not including a cushion for States that fail to meet or make significant progress toward meeting their targets. The AARP, America Walks, BikeWalkLee, Boston Public Health Commission, Idaho Walk Bike Alliance, LAB, Lebanon Valley Bicycle Coalition, Living Streets Alliance, Rails-to-Trails Conservancy, SRTS, Trailnet, Trust for America's Health, Walk Austin, and their supporters also argued that significant progress should not include outcomes that result in an increase in the number or rate of fatalities or of serious injuries. The FHWA agrees that the methodology should hold States to a high level of accountability. The methodology should also avoid determining that significant progress was made when the number or rate of fatalities or of serious injuries increased. The methodology must also support the national safety goal to achieve a significant reduction in fatalities and serious injuries.

The AASHTO, Arkansas, Colorado, Michigan, Missouri, Montana, New York, Ohio, Oklahoma, Oregon, Rhode Island, Texas, Utah State DOTs, Fairbanks Metropolitan Area Transportation System, Nashville MPO, NACCHO, and NYSAMPO, as well as the Association of Metropolitan Planning Organizations (AMPO), Smart Growth America and Transportation Choices Coalition commented that the determination of significant progress should not be based on historical trends. The FHWA agrees that the methodology should not be based on historical trends and should be associated with the targets the State establishes.

The AASHTO and Kentucky, Ohio, Oregon, and Rhode Island DOTs also advocated that the significant progress methodology should not discourage States from establishing aggressive targets and that the process should be flexible so as to not unduly impose the ''penalty.'' The FHWA agrees that the methodology should not discourage aggressive targets.

The ATSSA, Delaware, Kentucky, and Washington State DOTs expressed support for the prediction interval, with Washington State DOT citing that it is necessary and appropriate to account for the normal variance in crashes. The AARP, ARC, Trust for America's Health, several bicycling and walking organizations including America Walks, LAB, Lebanon Valley Bicycle Coalition, BikeWalkLee, Trailnet, and Idaho Walk Bike, the Tri-State Transportation Campaign Alliance (New York, New Jersey and Connecticut), and New York, Oregon, and Virginia DOTs expressed opposition to the prediction interval analysis proposed in the NPRM, stating that it was too complex, too confusing, or provided too great a cushion for States to not meet a target. The FHWA agrees that the prediction interval is too complex and that the methodology should be simple, understandable, and transparent.

Based on these comments, FHWA developed criteria to evaluate methodologies to assess whether a State met or made significant progress toward meeting its targets. The methodology should: (a) Hold States to a higher level of accountability; (b) not discourage aggressive targets; (c) support the national goal to achieve a significant reduction in fatalities and serious injuries; (d) be fair and consistent/quantitative; (e) be simple, understandable, and transparent; (f) not be based on historical trends; and (g) be associated with the targets. The FHWA believes that using these criteria to develop a revised methodology to assess whether a State has met or made significant progress toward meeting its targets results in an approach that addresses the commenters' concerns.

With these criteria in mind, FHWA considered several options to determine whether a State has met or made significant progress toward meeting its targets: (1) State meets a defined range around each target; (2) State meets a range around a trend line for the performance measure; (3) State uses their own pre-determined and approved methodology; (4) State meets some percentage of all targets; and (5) State performs better than a baseline for a performance measure. Some of these methodologies were submitted to the docket.

First, FHWA eliminated the first and second options that would allow a State to meet a range around a target or a range around a trend line. Developing a range around targets or a trend line, as was proposed in the NPRM, would require FHWA to define the range and evaluate States using complex mathematical analyses. Such an effort was strongly criticized and would not be consistent with the preference for a simpler methodology.

Arkansas, Colorado, and Michigan State DOTs suggested that they should be able to develop their own methodology for assessing whether a target was met or significant progress was made. To meet the principle ''to ensure for consistency,'' FHWA did not consider the third option where it would use a different methodology for each State. However, FHWA did evaluate a variation of the third option that would allow States to select a methodology from a suite of options approved by FHWA. The State's selected methodology would be approved by FHWA in much the same manner as FHWA approves a State's definition for ''high risk rural roads'' in the High Risk Rural Roads Special Rule (23 U.S.C. 148(g)). The FHWA carefully weighed this option against the criteria. This option does not seem to dis-incentivize States from setting aggressive targets and could incentivize some States to establish even more aggressive targets if the methodology were to reduce the risk of States failing to make significant progress. This option, however, does not necessarily further the national goal to significantly reduce traffic fatalities and serious injuries. This option also does not meet the criteria for being simple/understandable/transparent since it would be difficult, if not impossible, for the general public to follow the different methodologies and related assessments for each State. Lastly, it would not be possible for FHWA to tell a ''national story'' if States were to use different significant progress methodologies—contrary to one of FHWA's principles considered in the development of these regulations.[21] For these reasons, FHWA did not adopt this option in the final rule.

The FHWA considered the fourth option—State meets some percentage of all targets—to be viable. This option is simple and was recommended by several commenters, including AASHTO, nine State DOTs, DVRPC, SRTA, NYSAMPO, ATSSA, NACCHO, Smart Growth America, and Transportation for America. This option is easy to understand and implement, does not require a complex

[21] NPRM for the National Performance Management Measures; Highway Safety Improvement Program 79 FR 13846, 13852 (proposed March 11, 2014) *http://www.gpo.gov/fdsys/pkg/FR-2014-03-11/pdf/2014-05152.pdf.*

mathematical analysis, and does not require 10 years of historical data (which some States commented would be difficult to obtain). Further, this option is clearly associated with the targets the State establishes and is not based on the historical trend in the State. Accordingly, FHWA concluded that it is appropriate to assess whether a State has met or made significant progress toward achieving its targets based on the State meeting or making significant progress toward meeting a defined percentage of its targets.

In further considering the fourth option, FHWA evaluated the responses to the NPRM request for comments on whether 50 percent is the appropriate threshold for determining whether a State has overall achieved or made significant progress toward achieving its performance targets. The FHWA agrees with the commenters who stated that the 50 percent threshold is too low. The AARP suggested that States be required to meet all targets. Transportation for America, Nashville MPO, NACCHO, Smart Growth America, Transportation Choices Coalition, and Ryan Snyder Associates also suggested that 100 percent of targets should be met, but recognized that some flexibility should be provided.

The MAP–21 requires the Secretary to make a determination whether a State has ''met or made significant progress toward meeting'' its targets.[22] To satisfy this mandate, FHWA has determined that States must meet or make significant progress toward meeting four out of five targets. (The addition of the non-motorized performance measure in this final rule expands the number of required performance targets from the four proposed in the NPRM to five.) Requiring States to meet 100 percent of targets is not consistent with the ''or made significant progress toward meeting'' targets provision in 23 U.S.C. 148(i). Four out of five targets (80 percent) is more than the AASHTO and State DOT supported NPRM proposal to meet 50 percent of targets and similar to the 75 percent recommendation advocated by many commenters.

The AASHTO and Michigan DOT, in comments submitted after the close of the comment period, argued that non-motorized performance measures should not be considered in the determination of whether a State has met or made significant progress toward meeting targets because including them would limit a State's ability to use a comprehensive, data-driven approach to determine the best set of safety investments to achieve performance targets and because MAP–21 does not require such measures. As explained earlier, FHWA agrees with many commenters that it is important to hold States accountable to improve non-motorized safety. Including non-motorized performance in the assessment of whether a State met or made significant progress toward meeting targets will ensure that these measures have an impact on how investment decisions are made in this performance area, will improve non-motorized transportation safety, and will provide a publicly available platform to show whether the progress States are making in non-motorized transportation safety. Further, including non-motorized performance targets in FHWA's assessment of significant progress is consistent with the statutory requirements in 23 U.S.C. 150 and 148(i). The FHWA is establishing the non-motorized measure as part of its mandate in 23 U.S.C. 150(c)(4) to establish measures for States to use to assess the number of serious injuries and fatalities. For measures established by FHWA, including those identified in 23 U.S.C. 150(c)(4), States are required to establish targets reflecting these measures. 23 U.S.C. 150(d). Where States are required to establish targets, those targets are subject to the assessment under 23 U.S.C. 148(i) (requiring a determination of whether a State has ''met or made significant progress toward meeting the performance targets of the State established under section 150(d)''). Therefore, FHWA includes the non-motorized performance measure in the assessment of whether a State met or made significant progress toward meeting targets.

Finally, FHWA also considered the fifth option: Whether significant progress should be defined as an outcome that is better than the State's performance for some year or years prior to when the target was established. This option supports several of FHWA's evaluation criteria, as it is simple and encourages States to establish aggressive targets, while not subjecting them to additional requirements if they fail to meet the aggressive target when their performance still improves. It also supports the national goal to reduce traffic fatalities and serious injuries.[23] Although this option does not associate the significant progress determination with the target the State establishes, it does further the national goal and the purpose of the HSIP, encourages aggressive targets, and acknowledges States that have achieved safety improvement. Therefore, FHWA includes this option in this final rule. This final rule allows States that do not meet a target to be considered as having made significant progress toward meeting the target if the outcome for that performance measure is better than the State's performance for the year prior to the year in which target was established (*i.e.,* baseline safety performance).

For example, Table 2 presents a fictitious State's historical data, its Calendar Year (CY) 2018 targets, and FHWA's assessment of those targets. As targets are established for CY 2018 in the HSIP report that is due in August 2017, ''baseline safety performance'' is the performance data for CY2016. That is, the 5-year rolling average ending in CY2016 for each performance measure. (As the baseline performance year changes with the target year, if the example were for CY 2019 targets, ''baseline safety performance'' would be the performance data for CY 2017).

In this example, the only target the State met is its non-motorized safety performance target. This target is not evaluated further. The FHWA then assesses whether the State made significant progress for the other four performance measures, meaning whether the actual outcome for 2014–2018 was better than the baseline performance—2012–2016—for the Number of Fatalities, Number of Serious Injuries, Fatality Rate and Serious Injuries Rate performance measures. State performance did not improve for the Fatality Rate measure, but did improve for the other three. Therefore, for this example, FHWA would determine that the State met or made significant progress toward meeting its CY 2018 targets since 4 of the 5 targets were either met or were better than the baseline safety performance.

[22] 23 U.S.C. 148(i).

[23] 23 U.S.C. 150(b)(1).

TABLE 2—EXAMPLE OF THE DATA AND TARGET ASSESSMENT METHODOLOGY
[For illustrative purposes]

Performance measures	5 Year rolling averages							2018 target	Target achieved?	Better than baseline?	Met or made significant progress?
	2008–2012	2009–2013	2010–2014	2011–2015	2012–2016 baseline performance	2013–2017	2014–2018				
Number of Fatalities	501.2	486.6	478.0	476.0	474.0	473.0	472.4	468.0	No	Yes	Yes.
Fatality Rate	1.052	1.018	1.000	0.994	0.988	0.990	0.990	0.980	No	No.	
Number of Serious Injuries.	2,740.8	2,613.6	2,517.0	2,447.8	2,310.4	2,219.2	2,185.6	2,160.0	No	Yes.	
Serious Injury Rate	5.764	5.476	5.272	5.116	4.822	4.644	4.584	4.572	No	Yes.	
Number of Non-motorized Fatalities and Serious Injuries.	126.2	118.0	116.8	115.2	113.2	110.0	109.4	110.0	Yes	N/A.	

This option is similar to the significant progress methodology that FHWA proposed to assess pavement and bridge condition targets where an improvement above baseline is considered significant progress.[24]

In addition to the five options discussed above, FHWA considered three alternative methodologies that were suggested in public comments. These include: (1) Providing additional flexibility for top performing States; (2) allowing a State to submit evidence of extenuating circumstances outside the State DOT's control that contributed to the State not meeting its targets; and (3) assessing significant progress based on performance over a number of years, rather than annually.

The AASHTO suggested FHWA consider allowing certain top performing States to be exempt from the assessment regarding meeting or making significant progress toward meeting a target if a condition was met. Idaho, North Dakota, Michigan, Minnesota, Missouri, Montana, North Dakota, Oregon, Virginia, and Wyoming DOTs specifically stated that the proposed NPRM methodology may not be appropriate for all States, especially those that have already made large gains in reducing fatal and serious injury crashes. To address these comments, FHWA considered exempting a certain number of top performing States or States that had made large gains, a certain percentage of the States that had performed best in the past, or exempting the States that contribute the most toward the national goal (*e.g.* those States that reduce the largest number of fatalities or serious injuries). The FHWA determined that such options would be difficult to implement and would not meet the evaluation criteria. Excluding some top performing States would not relate the target achievement and significant progress determination to the State's target, since the top performing States would not be assessed at all. In addition, this option would not be simple, understandable, or transparent. Further, this option could place States in competition with each other since only the ''top performing'' States would benefit from this provision. This option could also be unfair to States with smaller overall numbers of fatalities or serious injuries. The purpose of implementing a transformational national performance management program is to measure performance by and within each State, not to assess performance by States against other States.

The AASHTO and States who supported AASHTO, along with individual comments from Arkansas, Illinois, Louisiana, New York, Pennsylvania, and South Dakota DOTs, and MARC specifically requested FHWA provide flexibility in the evaluation of meeting or making significant progress toward meeting targets for unforeseen circumstances or events outside of the State DOT's control. In addition, the Santa Barbara County Association of Governments (SBCAG) commented that many improvements to highway safety are outside the control of State DOTs and MPOs and depend on factors other than transportation infrastructure. The FHWA recognizes these concerns but emphasizes that State DOTs and MPOs are provided with HSIP funds annually to reduce fatalities and serious injuries on all public roads. The FHWA accounts for unforeseen events and factors outside of a State DOT's control in this rule in several ways. First, the 5-year rolling average provides a smoothing effect for variations in data that account, to a large degree, for such circumstances. Second, States that do not meet their target are considered as having made significant progress toward meeting the target if performance for that measure is better than performance for the year prior to the year in which the target was established. Third, only requiring a State to meet four out of five targets allows a State not to meet or make significant progress toward meeting an individual target for a performance measure or even be worse than the baseline, yet still result in a determination that the State has met or made significant progress toward meeting its performance targets. Fourth, States are encouraged to include the risk of unforeseen events and circumstances outside their control as part of their considerations as they establish targets. Because unforeseen events and factors outside of State DOT control are already considered as described above, FHWA has decided not to include an option for a State DOT to indicate that unforeseen circumstances should allow it or one of its targets to be exempt from target assessment.

The SBCAG and the Transportation Agency for Monterey County also advocated for HSIP funds to be available for activities beyond HSIP projects, specifically to include projects that address driver behavior. Eligible use of HSIP funds is addressed in the HSIP regulation at 23 CFR part 924. Under 23 U.S.C. 148, an HSIP project is defined as strategies, activities, or projects on a public road that are consistent with a State SHSP and that either corrects or improves a hazardous road segment, location, or feature, or addresses a highway safety problem. Examples of projects are described in 23 U.S.C. 148(a). (See 23 CFR part 924).

The FHWA also evaluated an option that would apply the target achievement and significant progress assessment after a certain number of years, rather than annually. Missouri and Rhode Island State DOTs commented that it would be difficult to adjust their State

[24] Assessing Pavement Conditions and Bridge Conditions for the Second National Highway Performance Program Management Measures; NPRM 80 FR 326 (proposed January 5, 2015) *http://www.gpo.gov/fdsys/pkg/FR-2015-01-05/pdf/2014-30085.pdf.*

Transportation Improvement Program (STIP) annually to implement a different set of safety improvements if they are determined to not have met or made significant progress toward meeting targets annually. They state that more time between assessment periods could improve a State's ability to determine what is working in its STIP and what is not, and to program/implement projects that have more impact to drive down fatality and serious injury numbers and rates. The FHWA did not pursue this approach because safety reporting is already required annually. For example, the HSIP reports submitted by States which include the fatality and serious injury data commensurate with the safety performance measures are transmitted on an annual basis. States establish targets and report on safety performance measures to NHTSA as part of their HSP and Highway Safety Annual Reports. Conducting an annual assessment is also consistent with the requirement to submit an annual implementation plan if the State fails to meet or make significant progress toward meeting its targets. If target achievement and significant progress were evaluated over a longer time period, the assessment would no longer align with the other safety reporting. In addition, waiting longer to assess whether States met or made significant progress toward meeting targets would not necessarily address the concerns about modifying the STIP, since the requirement for States subject to the 23 U.S.C. 148 provisions to obligate funds within the subsequent fiscal year is not based on how much time elapses between target assessments. In its analysis of docket comments and deliberations regarding changes to the methodology for assessing whether a State has met or made significant progress toward meeting its targets, FHWA was mindful of the provisions States must follow if FHWA determines they have not met or made significant progress toward meeting their performance targets. The 23 U.S.C. 148(i) requires States to: (1) Use a portion of their obligation authority only for HSIP projects and (2) submit an annual implementation plan that describes actions the State DOT will take to meet their targets. Both of these provisions apply each year after FHWA determines that the State has not met or made significant progress toward meeting its performance targets.

The Virginia DOT interprets the statute to say that States have 2 years to meet their targets, since FHWA must make a determination whether States have met or made significant progress toward meeting their targets by the date that is 2 years after the date of the establishment of the performance targets. As a result, Virginia DOT asked how FHWA could apply the provisions of 23 U.S.C. 148(i) if the determination were not made within 2 years of the date the target was established. In MAP–21, the 23 U.S.C. 148(i) stated ''If the Secretary determines that a State has not met or made significant progress toward meeting the performance targets of the State established under section 150(d) by the date that is 2 years after the date of the establishment of the performance targets, . . .'' However, the FAST Act changed 23 U.S.C. 148(i) to state, ''If the Secretary determines that a State has not met or made significant progress toward meeting the safety performance targets of the State established under section 150(d).'' Since the FAST Act removed the 2 year reference that Virginia DOT commented on, the statute can no longer be interpreted the way the Virginia DOT suggests. The FHWA believes that its interpretation is consistent with the plain language of the statute. Similar to what was proposed in the NPRM, FHWA establishes the safety performance measures as annual measures for a single performance year. The FHWA will determine whether a State has met or made significant progress toward meeting its targets when the outcome data for that calendar year is available and expects to notify States of its determination within 3 months. As described earlier in the document, FHWA has been able to shorten its evaluation of State targets by 1 year. The proposed and final approach to assessing significant progress, including the timing, is consistent with the revised language under the FAST Act.

V. Section-by-Section Discussion of the General Information and Highway Safety Improvement Program Measures

1. Subpart A—General Information

Section 490.101 General Definitions

In the NPRM, FHWA proposed several definitions for terms used in this regulation and in subsequent performance management regulations. The FHWA received only one substantive comment on this section: The County of Marin, CA Department of Public Works, supported including the definition for ''non-urbanized area'' to include rural areas as well as other areas that do not meet the conditions of an urbanized area. To ensure consistency with revised § 490.209(b) specifying a single, collective non-urbanized area target, FHWA revises the definition for ''non-urbanized area'' to clearly indicate that a non-urbanized area is a single, collective area comprising all of the areas in the State that are not ''urbanized areas'' defined under 23 U.S.C. 101(a)(34). The FHWA also removed the reference to 23 CFR 450.104 from the definition for clarity. The statutory definition provides for a State or local adjusted urbanized boundary based on the area designated by the Bureau of the Census, which is what FHWA intended for States to use when establishing the additional urbanized and/or non-urbanized targets, whereas 23 CFR 450.104 only references the Bureau of Census designated area.

Section 490.111 Incorporation by Reference

The FHWA incorporates by reference the ''Model Minimum Uniform Crash Criteria (MMUCC) Guideline, 4th Edition (2012)'' for the definition of serious injuries, as described in § 490.207(c). This guide presents a model minimum set of uniform variables or data elements for describing a motor vehicle crash. The Guide is available at: *http://mmucc.us/sites/default/files/MMUCC_4th_Ed.pdf.* In the NPRM, FHWA proposed the use of MMUCC, latest edition as part of § 490.207(c). Because the regulations now refer to a specific edition of MMUCC, rather than the ''latest edition,'' FHWA determined it was appropriate to incorporate by reference the specific edition. The MMUCC, 4th Edition was included on the NPRM docket.

The FHWA also incorporates by reference the ''ANSI D16.1–2007, Manual on Classification of Motor Vehicle Traffic Accidents, 7th Edition'' for the definition of non-motorized serious injuries, as described in § 490.205. The document is available from the National Safety Council, 1121 Spring Lake Drive, Itasca, Illinois 60143–3201, (*http://www-nrd.nhtsa.dot.gov/Pubs/07D16.pdf*). As discussed above, a non-motorized fatalities and non-motorized serious injuries performance measure has been added for this final rule.

2. Subpart B—National Performance Management Measures for the Highway Safety Improvement Program

Section 490.201 Purpose

The FHWA includes a statement describing the general purpose of the subpart: To implement certain sections of title 23 U.S.C. that require FHWA to establish measures for State DOTs to use to assess the rate of serious injuries and fatalities and the number of serious injuries and fatalities. The Colorado

DOT suggested that FHWA reverse the order of the measures, thus listing the number of serious injuries and fatalities followed by the rate of each, in order to show first the importance of each person. The FHWA adopts the language, as proposed in the NPRM, stating the rate first followed by the number, in order to reflect the order of the performance measures as listed in MAP–21.

Section 490.203 Applicability

As proposed in the NPRM, FHWA specifies that the safety performance measures are applicable to all public roads covered by the HSIP under 23 U.S.C. 130 and 23 U.S.C. 148. The FHWA did not receive any substantive comments regarding this section and adopts the language in the final rule.

Section 490.205 Definitions

In the NPRM, FHWA proposed several definitions for terms used in the regulation. The FHWA revises the final rule in several respects, resulting in the elimination of some terms and the addition of new terms. These changes are reflected in the definitions section and described below. In addition, FHWA revises some of the definitions to provide clarity based on docket comments.

The FHWA adopts a definition for ''5-year rolling average'' because it is used to define the performance measures in this final rule. In the NPRM, FHWA noted that the 5-year rolling average is the average of five individual, consecutive annual points of data for each proposed performance measure (*e.g.,* 5-year rolling average of the annual fatality rate). Using a multiyear average approach does not eliminate years with significant increases or decreases. Instead, it provides a better understanding of the overall fatality and serious injury data over time. The 5-year rolling average also provides a mechanism for accounting for regression to the mean. If a particularly high or low number of fatalities and/or serious injuries occur in 1 year, a return to a level consistent with the average in the previous year may occur. Additionally, FHWA requested stakeholder comment on whether a 3-, 4-, or 5-year rolling average should be required for the HSIP performance measures and also encouraged comment on whether the use of moving averages is appropriate to predict future metrics. The AASHTO and 15 State DOTs, ATSSA, and local agencies including the Association of Monterey Bay Area Governments (AMBAG), ARC, DVRPC, MARC, Metropolitan Transportation Commission (California), SBCAG, and SRTA explicitly expressed support for the adoption of a 5-year rolling average for the performance measures. Commenters agreed that a 5-year rolling average allows for the smoothing out of statistical anomalies and provides a means to evaluate progress from year to year in a more consistent fashion than one based on single year peaks and valleys. The AASHTO suggested that the 5-year rolling average is consistent with most States' current approach to evaluating many of their safety efforts and is an effective way to predict future performance over time and help account for fluctuations in annual data. Several agencies within California including the California State Association of Counties, California Highway Patrol, California Walks, and Nevada County, as well as the NYSAMPO expressed concern that the 5-year rolling average may be too long, recommending that a 3-year rolling average be used instead. The NYSAMPO stated that a rolling average is the proper methodology for documenting trends in safety performance, because it smooths out the propensity for random crash events, but suggested that the 5-year period may be too long, since it uses historical data that looks backward when the intent of MAP–21 is to measure the outcomes of current State and MPO investment choices. Washington State DOT expressed a preference for a 7-year rolling average, but agreed that 5 years is an acceptable mid-point, and indicated that the 5-year rolling average is much preferred to a 1-, 3-, or 4-year period, as it better controls for regression to the mean and associated randomness of crash data. The FHWA maintains that a 5-year rolling average provides the appropriate balance between the stability of the data (by averaging multiple years) and providing an accurate trend of the data (by minimizing how far back in time to consider data). Five years is the best compromise for States with a small number of fatalities that may see wide fluctuations in the number of fatalities from year to year and the desire to minimize the use of historical data. The FHWA adopts a definition for ''5-year rolling average'' as proposed in the NPRM. Example calculations for all of the performance measures are provided in the discussion of § 490.207.

In the NPRM, FHWA solicited comments on whether the approximate 24-month time lag before FHWA assesses whether a State met or made significant progress toward meeting its targets (time period between the end of the calendar year in which the data were collected and the date the data are available in the Final FARS and HPMS) is an issue and any impacts it may have on a State DOT's ability to establish targets. Several commenters expressed concern that this time lag would create difficulties in establishing targets and reporting on meeting or making significant progress toward meeting targets. The AASHTO and several State DOTs recommended that States be allowed to use their own State crash databases for the fatality measures, as they would for the serious injury measures, since the fatality data would be available much earlier in the State databases.

The FHWA agrees that the data lag proposed in the NPRM is a concern. However, FHWA believes it is important to preserve the integrity of the national data wherever possible, and therefore does not believe it is appropriate to use State-certified fatality data if national data exist, due to the variability that could be introduced. To address concerns about the data time lag, FHWA revises the final rule regarding the use of FARS data and adds a definition for ''Annual Report File (ARF),'' modifies the definition for ''Fatality Analysis Reporting System (FARS)'' and adds a definition for ''Final FARS.'' The added and changed definitions clarify the data contained in each FARS file—Final FARS and FARS ARF—and that FARS ARF is available approximately 1 year earlier than Final FARS. These changes will allow FHWA to make the determination of whether a State has met or made significant progress toward meeting its targets approximately 1 year earlier than what was proposed in the NPRM. Further discussion regarding the use of these terms is provided in § 490.211.

As discussed above, in this final rule FHWA revises the methodology for determining whether a State has met or made significant progress toward meeting its performance targets to reflect numerous comments suggesting such changes. The FHWA deletes the definitions for ''made significant progress,'' ''historical trend line,'' ''prediction interval,'' and ''projection point'' proposed in the NPRM, as these are no longer used.

The FHWA adds a non-motorized performance measure to those proposed in the NPRM and adds definitions for the terms ''number of non-motorized fatalities'' and ''number of non-motorized serious injuries'' to explicitly define those terms and the associated data sources. Consistent with comments received on this issue, FHWA is broad and inclusive in defining the non-motorized performance measure. The FHWA considers non-motorists,

consistent with 23 U.S.C. 217(j), to be those transportation system users who are not in or on traditional motor vehicles on public roadways. The FHWA intends to include in the non-motorized performance measure people using many non-motorized forms of transportation including: Persons traveling by foot, children in strollers, skateboarders, persons in wheelchairs (both non-motorized and motorized), persons riding bicycles or pedalcycles, etc.

The FHWA recognizes that FARS uses slightly different coding conventions to input person types in its database from that used in State motor vehicle crash databases. Therefore, FHWA includes different non-motorist person-types in its definitions and coding conventions for the number of non-motorized fatalities and the definition of number of non-motorized serious injuries. For non-motorist fatalities, FHWA defines the fatally injured non-motorist person, *i.e.* the ''person type,'' defined in FARS,[25] to include the person level attribute codes for (5) Pedestrians, (6) Bicyclists, (7) Other Cyclists, and (8) Persons on Personal Conveyances. For non-motorist serious injuries, FHWA defines the seriously injured person type as the codes and definitions for a (2.2.36) pedestrian or (2.2.39) pedalcyclist in the American National Standard (ANSI) D16.1–2007 *Manual on Classification of Motor Vehicle Traffic Accidents.*[26] The FHWA recognizes that not all State crash databases use the ANSI D16.1 standard. Therefore, FHWA includes in the number of non-motorized serious injuries definition that States may use definitions that are equivalent to those in ANSI. Pedestrian and pedalcyclist person types, or an equivalent, are universally used in State motor vehicle crash databases and are consistent with the FARS person types included in the definition of non-motorized fatalities. For those State motor vehicle crash databases where the person type definitions do not conform to the ANSI D16.1 standard, FHWA will provide guidance on which person types should be included in the non-motorized performance measure data report to FHWA. The FHWA revises the definition for ''number of serious injuries'' to specifically require compliance with the 4th Edition of MMUCC, rather than the latest edition, as proposed in the NPRM. The AASHTO and the Alaska, Arkansas, Delaware, Iowa, and Maine DOTs expressed concern with MMUCC compliance if there are changes to the definition in subsequent editions of MMUCC. Additional information regarding the change to specifically require the 4th Edition of MMUCC is contained in the discussion of § 490.207.

The FHWA also clarifies the definition for ''number of serious injuries'' to specify that the crash must involve a motor vehicle traveling on a public road, which is consistent with FARS and State motor vehicle crash databases as discussed previously. Specifically, FARS only includes fatalities where a motor vehicle is involved in the crash. State crash databases may contain serious injury crashes that did not involve a motor vehicle. In order to make the data consistent for the performance measures in this rule, States will only report serious injury crashes that involved a motor vehicle. This clarification is particularly important when considering the non-motorized performance measure. Non-motorized fatalities and non-motorized serious injuries will only be considered in the performance measure if the crash involves a non-motorist and a motor vehicle. As AASHTO and the Michigan DOT noted in comments submitted after the close of the comment period, fatal and serious injury crashes involving only non-motorists (*e.g.,* a bicyclist crashing into a pedestrian) are not included in FARS or many State motor vehicle crash databases. There is not a single national or State-by-State data source that includes these types of non-motorized fatal or serious injury crashes.

Finally, FHWA revises the definition of ''serious injury'' to reflect that agencies may use injuries classified as ''A'' on the KABCO scale through use of the conversion tables developed by NHTSA for the first 36 months after the effective date of this rule, and that after 36 months from the effective date of this rule agencies shall use, ''suspected serious injury'' (A) as defined in the MMUCC, 4th Edition. The AASHTO and Alaska, California, Georgia, Florida, Missouri, Oregon, Pennsylvania, and Washington State DOTs commented that the 18-month time frame to adopt MMUCC proposed in the NPRM was too aggressive and feared that they or other State DOTs would not be able to comply with the requirement. The Oregon and Washington State DOTs commented that while they could meet the 18-month timeframe, other States may have a hard time meeting it. The AASHTO and the States that generally agree with AASHTO's comments on this issue suggested that 36 months to adopt MMUCC would give States that have not planned or are early in the process of converting to MMUCC more time to make the change without placing an undue burden on States already facing limited resources. The FHWA adopts these revisions to extend the timeframe States have to comply with the definition in MMUCC, 4th Edition. Together, these requirements will provide for greater consistency in the reporting of serious injuries, allow for better communication of serious injury data at the national level and help provide FHWA the ability to better communicate a national safety performance story.

The FHWA retains definitions for ''KABCO,'' ''number of fatalities,'' ''rate of fatalities,'' and ''rate of serious injuries'' as proposed in the NPRM. There were no substantive comments regarding these definitions as proposed, therefore FHWA adopts these definitions in the final rule. Finally, FHWA adds a definition for ''public road'' to clarify that this rule uses the same definition as is used in the HSIP regulation at 23 CFR part 924.

Section 490.207 National Performance Management Measures for the Highway Safety Improvement Program

In § 490.207(a), FHWA describes the performance measures required under 23 U.S.C. 150 for the purpose of carrying out the HSIP. Upon consideration of docket comments and FHWA's belief that it is important to hold States accountable to improve non-motorized safety, FHWA revises the final rule to include a performance measure to assess the number of combined non-motorized fatalities and non-motorized serious injuries in a State. New paragraph (a)(5), number of non-motorized fatalities and non-motorized serious injuries, is in addition to the four measures proposed in the NPRM: (1) Number of fatalities; (2) rate of fatalities; (3) number of serious injuries; and (4) rate of serious injuries.

In § 490.207(b), FHWA adopts a methodology for calculating each performance measure based on a 5-year rolling average. The AASHTO as well as Maine, Michigan, and Pennsylvania DOTs suggested that more clarity was needed and suggested the potential to revise the calculation of 5-year rolling average to better define how it is calculated and the years to be included in the calculation. The FHWA clarifies that the 5-year rolling average covers the 5-year period that ends in the year for which targets are established. For

[25] FARS/NAS GES Coding and Validation Manual *http://www-nrd.nhtsa.dot.gov/CATS/listpublications.aspx?Id=J&ShowBy=DocType.*

[26] ANSI D 16 (2007): *http://www-nrd.nhtsa.dot.gov/Pubs/07D16.pdf.*

example, the measures for target year 2018 would cover the years 2014, 2015, 2016, 2017, and 2018. Further, FHWA reviewed the performance measure calculations and recognized potential ambiguity in identifying changes from one 5-year rolling average to another. To rectify that ambiguity, for those performance measures calculated using annual data expressed as integers (*i.e.,* number of fatalities or serious injuries), FHWA adopts a calculation of a 5-year rolling average that rounds to the tenths place; similarly, for those performance measures calculated using annual data that was initially rounded to the hundredths place (*i.e.,* fatality rate per 100 million VMT), FHWA adopts a calculation of a 5-year rolling average that rounds to the thousandths place. Applying an additional place value to the numbers that are being used to produce a 5-year rolling average more accurately reveals the change from one 5-year rolling average to another that might be obscured if the 5-year rolling averages were rounded to the same place value, and alleviates some of the confusion about the methodology pointed out in the comments.

The following items describe the calculation for each of the five performance measures. In paragraph (b)(1), FHWA states that the performance measure for the number of fatalities is the 5-year rolling average of the total number of fatalities for each State and is calculated by adding the number of fatalities for the most recent 5 consecutive calendar years ending in the year for which the targets are established. The FARS ARF is used if Final FARS is not available. The sum of the fatalities is divided by five and then rounded to the tenth decimal place. The following example illustrates this calculation:

Year	2014	2015	2016	2017	2018
Number of Fatalities	694	739	593	533	*514

*From FARS ARF, if Final FARS is not available.

1. Add the number of fatalities for the most recent 5 consecutive calendar years ending in the year for which the targets are established:

694 + 739 + 593 + 533 + 514 = 3073

2. Divide by five and round to the nearest tenth decimal place:

3073/5 = 614.6

The additional place value (the tenths place) in Step 2 reveals change from one 5-year rolling average to another that might be obscured if the 5-year rolling averages were rounded to the same place value. As proposed in the NPRM, FHWA adopts the data reported by the FARS database for each calendar year (FARS ARF if Final FARS is not available) as the number of fatalities for each State.

In paragraph (b)(2), FHWA adopts the calculation for the rate of fatalities performance measure as the 5-year rolling average of the State's fatality rate per VMT as first calculating the fatality rate per 100 million VMT, rounded to the hundredths decimal place, for each of the most recent 5 consecutive years ending in the year for which the targets are established. The FARS ARF is used if Final FARS is not available. The FHWA also clarifies the different data sources for the VMT used to calculate the rate measures. State VMT data are derived from the HPMS. The MPO VMT is estimated by the MPO. The FHWA added the provision for MPO VMT estimates since the NPRM did not identify an appropriate source for MPO VMT, as it does not exist in the HPMS. For more information on MPO VMT, see the discussion of § 490.213. The sum of the fatality rates is divided by five and rounded to the thousandth decimal place. The AASHTO asked for clarification whether the same years of data must be used to calculate a rate for any one calendar year. The FHWA clarifies that rates are calculated using the same year of data (*e.g.* CY 2017 rates are calculated using CY 2017 FARS data and CY 2017 VMT data). The following example illustrates this calculation:

Year	2014	2015	2016	2017	2018
Fatality Rate per 100 million VMT	0.91	0.89	0.88	0.86	*0.98

*Based on FARS ARF, if Final FARS is not available.

1. Add the fatality rate, rounded to the hundredths decimal place, for the most recent 5 consecutive calendar years ending in the year for which the targets are established:

0.91 + 0.89 + 0.88 + 0.86 + 0.98 = 4.52

2. Divide by 5 and round to the nearest thousandths decimal place:

4.52/5 = 0.904

The additional place value (the thousandths place) in Step 2 reveals change from one 5-year rolling average to another that might be obscured if the 5-year rolling averages were rounded to the same place value.

In the NPRM, FHWA proposed that the VMT reported in the HPMS be used for the fatality and the serious injury rate measures. The New York Metropolitan Transportation Council (NYMTC), ARC, AMBAG, NYSAMPO, San Diego Association of Governments (SANDAG), and the Southern California Association of Governments (SCAG) commented that there are gaps in the quality and availability of safety, roadway, and volume data on roads off of the State system, including local and tribal roads. The FHWA acknowledges there are some data gaps, so includes provisions in this and the HSIP rule (23 CFR part 924) to address those gaps.

First, regarding safety data, FARS is a nationwide census providing NHTSA, Congress, and the American public yearly data regarding fatal injuries suffered in motor vehicle traffic crashes.[27] The NHTSA administers FARS and works with States, as well as State and tribal governments, to improve crash reporting on all public roads including: A grant program under 23 U.S.C. 405(c), which supports State efforts to improve crash data systems; the Traffic Records Assessments programs which support peer evaluations and recommendations to improve State traffic records system capabilities; and the Crash Data Improvement Program, which examines the quality of each State's crash data and provides States with specific recommendations to improve the quality, management and use of the data to support safety decisions.

Second, regarding roadway data, the HSIP rule requires States to collect and use a subset of Model Inventory of

[27] *http://www.nhtsa.gov/FARS.*

Roadway Elements (MIRE) for all public roadways, including local roads. These data elements will improve States' and MPO's ability to estimate expected number of crashes at roadway locations.

Third, regarding volume data, FHWA acknowledges that while the HPMS derives VMT for all public roads within the entire State boundary, it cannot provide VMT estimates for all public roads within a metropolitan planning area because it may not contain volume data on enough local roads within these areas. In the final rule, FHWA identifies the HPMS as the data source for the State VMT and the MPO VMT estimate as the source for MPO VMT. The FHWA added the provision for MPO VMT estimates since the NPRM did not identify an appropriate source for MPO VMT, as it does not exist in the HPMS. For more information on MPO VMT, see the discussion of § 490.213.

In paragraph (b)(3), FHWA adopts a calculation for the number of serious injuries performance measure as the 5-year rolling average of the total number of serious injuries for each State, to be calculated by adding the number of serious injuries for the most recent 5 consecutive calendar years ending in the year for which the targets are established. The sum of the serious injuries is divided by five and then rounded to the tenth decimal place.

In paragraph (b)(4), FHWA adopts the calculation for the rate of serious injuries performance measure as the 5-year rolling average of the State's serious injuries rate per VMT as first calculating the rate of serious injuries per 100 million VMT, rounded to the hundredths decimal place, for each of the most recent 5 consecutive years ending in the year for which the targets are established. The sum of the serious injury rates is divided by five and rounded to the thousandths decimal place. The FHWA also clarifies the different data sources for the VMT used to calculate the rate measures. State VMT data is derived from the HPMS. The MPO VMT is estimated by the MPO. The FHWA will provide technical guidance to support local computation of VMT-based safety performance targets.

The FHWA adds a new paragraph (b)(5) in the final rule to describe the calculation for the non-motorized fatalities and non-motorized serious injury performance measure as the 5-year rolling average of the total number of non-motorized fatalities and the total number of non-motorized serious injuries for each State. It is calculated by adding the number of non-motorized fatalities to the number of non-motorized serious injuries for each year for the most recent 5 consecutive years ending in the year for which the targets are established (FARS ARF is used if Final FARS is not available), dividing by five and rounding to the tenths decimal place.

As proposed in the NPRM, in § 490.207(c), FHWA requires that by the effective date of this rule, serious injuries shall be coded (A) on the KABCO injury classification scale through the use of the NHTSA serious injuries conversion tables. These serious injury conversion tables were available in the docket for review. Virginia DOT commented that their serious injury definition has changed over the time period of the conversion tables. The NHTSA State Data Systems team has reviewed the comment and notes that some changes were made over the years in Virginia State crash data, but these changes will not affect the serious injury crash counts that the State would report in compliance with this rule. Therefore, no change is needed to the conversion table.

In response to requests for comment on whether some other injury classification and coding system would be more appropriate, Kentucky, Missouri, and Washington State DOTs and the NYSAMPO supported the use of KABCO. Two professors from the University of Michigan commented that usage of the KABCO scale is known to vary from State to State and even locality to locality. As stated in the NPRM, FHWA recognizes that there is some variability in the injury assessments as well as the implementation of the KABCO reporting system across and within States. The FHWA believes that the KABCO injury classification scale, through the use of the NHTSA serious injury conversion tables, is the best option for documenting uniform serious injury coding for all motor vehicle crashes across all States until all States report serious injuries in accordance with MMUCC, 4th Edition. After MMUCC is fully instituted in all States, these variabilities will be resolved and the conversion tables will no longer be required. The ATSSA, Oregon, and Washington State DOTs suggested that some States do not currently include the KABCO scale in their crash reporting, so the type ''A'' crash type from that scale would not be available in those States. The FHWA addresses this concern by requiring States that are not using KABCO to use the NHTSA serious injury conversion tables to convert crash reporting to type ''A'' on the KABCO scale.

The National Association of State Emergency Medical Service Officials indicated that it does not believe that even the most well-intended law enforcement officers can be expected to accurately make medical diagnoses at the scene of a crash and that research has confirmed that use of KABCO for this purpose is very unreliable and inaccurate. As a result, it suggested that FHWA move away from KABCO and accelerate the date for expecting States to determine serious injury by linking medical records. While FHWA understands that it is difficult for law enforcement officers to make medical diagnoses at crash scenes and that there may be some variability in the diagnoses as well as the implementation of the KABCO reporting system across and within States, FHWA believes that the KABCO injury classification scale, through the use of the NHTSA serious injury conversion tables, is an appropriate step toward providing greater consistency in defining serious injuries. The FHWA does not believe there is a way to implement a national medical records linkage system in time for the implementation of this rule.

In the NPRM, FHWA also proposed that within 18 months of the effective date of this rule, serious injuries were to have been determined using the latest edition of MMUCC. The FHWA received comments from AASHTO and eight State DOTs (see discussion above in § 490.205) regarding the 18-month timeframe suggesting that such a timeframe would be difficult to meet. The AASHTO indicated that if a State is not currently using this definition, it will require a lengthy and resource-intensive process to work with law enforcement to change reporting processes, update manuals and training materials, and then train every law enforcement agency that reports crashes within each State. The AASHTO, and 7 of the 8 State DOTs, recommended that States need 36 months to complete this process, while Alaska DOT recommended 48 months. Washington State DOT and Oregon DOT agreed that 18 months is sufficient time for most agencies.

The FHWA understands that some States will need more than 18 months to come into compliance with MMUCC. The FHWA revises the timeframe for coming into compliance to 36 months based on the estimate provided by AASHTO and the majority of States that commented on this provision. Further, FHWA recognizes State DOT concerns that specifying ''the latest edition of MMUCC'' in the regulation could cause States to be in noncompliance as soon as a new edition of MMUCC is adopted. Therefore, as recommended by AASHTO and State DOTs that

supported AASHTO comments, FHWA specifies the 4th Edition of MMUCC in this final rule. Should subsequent editions of MMUCC change the serious injury definition, FHWA would consider whether changes are required to this regulation.

The Texas DOT commented that whatever definition is used may not correspond with its pre-2009 crash data. As described in the NPRM, FHWA also recognizes that as serious injury data are migrated to the MMUCC definition, variances may occur in the data collected and reported by States. For example, a State may not be currently coding an injury attribute that is included in the MMUCC and this could cause an over-counting or under-counting that would not occur once MMUCC is adopted. States should make necessary adjustments in establishing their targets to accommodate these potential changes.

In the NPRM, FHWA recommended, but did not require, in § 490.207(d) that States prepare themselves, no later than calendar year 2020, for serious injury data to be collected through and reported by a hospital records injury outcome reporting system that links injury outcomes from hospital inpatient and emergency discharge databases to crash reports. In the NPRM, FHWA gave the NHTSA Crash Outcome Data Evaluation System (CODES) as an example of a crash outcome data linkage system. The National Transportation Safety Board (NTSB) and the Northeast Ohio Areawide Coordinating Agency supported this approach. The AASHTO suggested that the use of a system like CODES that links collision and medical records to identify serious crash injury data has both benefits and drawbacks. The AASHTO indicated that the benefits will likely be better data, but the drawback is likely a longer delay in reporting (up to 3 years) and possibly a loss of some data due to records not matching or Health Insurance Privacy and Portability Act limitations. Both AASHTO and NTSB stated that there is no dedicated funding for CODES or a similar system. As a result, AASHTO suggested that the CODES program needs serious work before being rolled out and becoming part of the core requirement. Massachusetts DOT expressed concern that in smaller geographic States, where it is fairly common to cross State lines between place of incident and place of treatment, it would be extremely difficult to reconcile the two datasets. Minnesota DOT suggested that the current lag between medical data and crash reporting is unacceptable for analysis and for developing countermeasures and as a result, the 2020 timeframe described in the NPRM is not feasible or appropriate. Florida, Louisiana, Maine, Michigan, Missouri, New York, Oklahoma, Texas, and Utah DOTs expressed similar concerns with the problematic nature of medical linkage systems due to lack of funding and associated expenses, privacy laws, and time lag and suggested that FHWA withhold recommending or requiring an implementation date for such linkage systems until such issues could be resolved.

Due to the unresolved issues associated with medical linkage systems and the docket comments suggesting that an implementation timeframe be omitted from the regulation, FHWA removes the recommendation from the rule. The FHWA believes that medical linkage systems are important and encourages States to embrace a framework to perform comprehensive linkage of records related to motor vehicle crashes resulting in serious injuries by collecting and analyzing data in a manner that will not preclude the use of such systems in their State in the future. As mentioned in the NPRM, DOT is an active liaison to the National Cooperative Highway Research Program Project 17–57 Development of a Comprehensive Approach for Serious Traffic Crash Injury Measurement and Reporting Systems.[28] The DOT is awaiting completion of this project. The recommendations could then be effectively implemented in all States. This final rule does not prohibit a State from using a data linkage system like CODES, but requires States to use the MMUCC definition of ''suspected serious injury'' and the KABCO system, through use of the NHTSA conversion tables, for reporting serious injuries data for purposes of this rule.

Section 490.209 Establishment of Performance Targets

As proposed in the NPRM, FHWA adopts § 490.209(a), which requires State DOTs to establish quantifiable targets for each performance measure identified in § 490.207(a). In paragraph (a)(1), FHWA adopts, as proposed in the NPRM, that State DOT targets shall be identical to the targets established by the SHSO for common performance measures reported in the State's HSP, as required under 23 U.S.C. 402 and NHTSA's regulations at 23 CFR part 1200. The three common performance measures are: (1) fatality number; (2) fatality rate; and (3) serious injury number.

The California Department of Transportation (Caltrans), Texas, and New York DOTs submitted comments in support of this requirement. Rhode Island and Washington State DOTs supported consistent measures and efforts to coordinate them. However, AASHTO opposed the requirement for identical targets. Thirty-six State DOTs submitted letters indicating overall support for AASHTO's comments. Delaware, Florida, Idaho, Maine, Missouri, Montana, North Dakota, Oklahoma, South Dakota, and Wyoming State DOTs submitted individual letters opposing this requirement.

The AASHTO stated that the regulation should more clearly vest target establishment authority in States. One of AASHTO's concerns with establishing identical targets is the resulting effect of the requirement under 23 U.S.C. 402(k)(4) that a State's HSP be approved by NHTSA. In effect, AASHTO's argument is that requiring identical targets in paragraph (a)(1) results in HSIP targets needing NHTSA's approval, notwithstanding 23 U.S.C. 150(d)(1), which provides States with target establishment authority not subject to FHWA approval. Another one of AASHTO's concerns is that it believes there are fundamental differences between NHTSA and FHWA's approaches to transportation safety. The AASHTO stated that State DOTs should be able to implement innovative safety projects and establish aggressive performance targets in their HSPs without fear of ''MAP–21 penalties that are imposed'' when States do not meet or make significant progress toward meeting these targets. The AASHTO stated that State DOTs should have flexibility to establish safety targets ''that have performance holding steady, or in some situations declining, and are consistent with the [political and economic] realities present in their state,'' not subject to DOT approval.

In MAP–21, Congress ordered FHWA to ''promulgate a rulemaking that establishes performance measures and standards.'' 23 U.S.C. 150(c)(1). While 23 U.S.C. 150(d) provides that States establish performance targets, FHWA was given the authority to determine the corresponding performance measures. The FHWA understands AASHTO's concerns but, for the reasons discussed below, believes that it is consistent with FHWA's statutory mandate to require that performance measures in a State's HSIP be identical to those in a State's HSP where common.

While there are fundamental differences between FHWA's and NHTSA's approaches to transportation safety, the connection between the HSIP

[28] *http://apps.trb.org/cmsfeed/TRBNetProjectDisplay.asp?ProjectID=3179.*

and HSP has increased in recent years. In MAP–21, Congress required that the performance measures included in an HSP be those developed by NHTSA and the Governor's Highway Safety Association (GHSA), as described in the report, ''Traffic Safety Performance Measures for States and Federal Agencies'' (DOT HS 811 025). 23 U.S.C. 402(k)(4). In this report, States are required to establish goals for and report progress on 11 core outcome measures, agreed upon by NHTSA and GHSA, which include: the number of traffic fatalities, the number of serious injuries in traffic crashes, and fatalities per VMT (*i.e.,* fatalities per mile of travel). Similarly, in MAP–21, Congress required that States' HSIPs include these three performance measures: the number of fatalities, the number of serious injuries, and fatalities per vehicle mile traveled (*i.e.,* fatalities per VMT). 23 U.S.C. 150(c)(4).

Not only did Congress require in MAP–21 the three common performance measures be included in State HSIPs and HSPs, Congress desired that the two programs work together. The MAP–21 amended 23 U.S.C. 402(b)(1)(F)(v) to require that each State coordinate its HSP, data collection, and information systems with the SHSP, as defined in 23 U.S.C. 148(a). The MAP–21 also amended 23 U.S.C. 148(c)(2)(D)(i) to require that as part of a State's HSIP, each State ''advance the capabilities of the State for safety data, collection, analysis, and integration in a manner that complements the State [HSP] . . .'' Moreover, a State's SHSP is to be developed after consultation with a highway safety representative of the State's Governor, who is in fact the SHSO. 23 U.S.C. 148(a)(11)(i). The new and existing performance management linkages connecting the HSIP and HSP to the SHSP promote a coordinated relationship for common performance measures, resulting in comprehensive transportation and safety planning. The FHWA's requirement for identical targets also is consistent with the requirement in NHTSA's regulations at 23 CFR part 1200 [29] to have common performance measures that are defined identically. See 23 CFR 1200.11(b)(2). If the measures are defined identically, any associated targets should also be identical. Requiring identical targets, therefore, takes advantage of and reinforces the linkages in MAP–21 between the HSIP and HSP and is consistent with NHTSA's regulations. If States focus and apply Federal funds and requirements under both programs toward the same safety targets and goals, the opportunity to reduce traffic fatalities and serious injuries is maximized.

Notably, this approach is consistent with the national safety goals Congress established for the Federal-aid highway program and NHTSA's mission: To reduce traffic fatalities and serious injuries (in the case of FHWA) and to reduce traffic accidents and the resulting deaths, injuries, and property damage (in the case of NHTSA) (23 U.S.C. 150(b)(1) and 23 U.S.C. 402(a)). To further these goals, FHWA strongly encourages State DOTs establish targets that represent improved safety performance.

In addition, allowing a State to establish two safety targets for common performance measures would be inefficient and could lead to public confusion, which is not what Congress intended. See 23 U.S.C. 150(a). Public transparency is vital to ensure that an effective performance management framework exists so that the public can encourage and hold accountable State decisionmakers to achieve aggressive safety targets. If there are two distinct and possibly competing safety targets for common performance measures, the public may have difficulty understanding or assessing a State's overall performance in those safety areas. Separate targets could also be a burden on States by possibly requiring the collecting and reporting of two different sets of data for common performance measures in an HSIP and an HSP.

The FHWA believes States retain the authority and flexibility to establish safety targets for the common performance measures. The FHWA's adoption of § 490.209(a)(1) will not interfere with State discretion, because FHWA will not control, supplant, or make it more difficult for States to have their targets approved by NHTSA. Through collaborative discussions, both FHWA Division Offices and NHTSA Regional Offices work closely with each State as the State drafts its HSP targets. The FHWA anticipates that this increased coordination among the State behavioral and infrastructure safety offices during the target establishment process could result in better communication and working relationships in the States and could reduce the burden of collecting and submitting multiple sets of data.[30]

Regardless of the DOT entity receiving the target from the State (NHTSA or FHWA), the data used to establish the performance measures and targets would be the same. The overlap between the HSP and this rule is in a single area—target establishment for three common performance measures—as NHTSA's review of a State HSP includes target establishment. Under 23 U.S.C. 402(k)(5), disapproval of a State's plan, with respect to targets, may occur if ''. . . the performance targets contained in the plan are not evidence-based or supported by data.'' Under NHTSA's Uniform Procedures for State Highway Safety Grant Programs, the State identifies its highway safety problems, describes its performance measures, defines its performance targets, and develops evidence based countermeasure strategies to address the problems and achieve the targets (23 CFR 1200.11(a)(1)). The State provides ''quantifiable annual performance targets'' and ''justification for each performance target that explains why the target is appropriate and data driven'' (23 CFR 1200.11(b)(2)). The NHTSA Regional Offices work closely with States while the HSPs are being developed, and may request additional information from the State to ensure compliance with these requirements. While NHTSA must ensure that performance targets under the HSP are appropriate and data-driven, it does so only through extensive coordination with the State. This collaborative process should ameliorate any concerns that States will be deprived of needed flexibility in establishing targets.

The FHWA adopts paragraph (a)(2) as proposed in the NPRM, which requires that the performance targets established by the State represent the safety performance outcomes anticipated for the calendar year following each HSIP annual report. As discussed in the NPRM, FHWA recognizes that the State DOT would use the most current data available to it when establishing targets required by this rule; that there are differences in the FARS ARF, Final FARS, and HPMS data bases and the State's most current data; and that there is a time lag between the availability of FARS and HPMS data and the date by which the State needs to establish performance targets. For the serious

[29] In the IFR NHTSA published, titled ''Uniform Procedures for State Highway Safety Grant Programs,'' on January 23, 2013. 78 FR 4986 (Jan. 23, 2013), NHTSA stated that due to the linkages between NHTSA-administered programs and other U.S. DOT programs under MAP–21, ''[t]he Department will harmonize performance measures that are common across programs of [U.S. DOT] agencies (*e.g.,* fatalities and serious injuries) to ensure that the highway safety community is provided uniform measures of progress. . . . NHTSA intends to collaborate with other [U.S.] DOT agencies to ensure there are not multiple measures and targets for the performance measures common across the various Federal safety programs.'' 78 FR 4986–87.

[30] Part of NHTSA's HSP evaluation process includes ensuring that SHSO-submitted targets are coordinated with the State DOT.

injuries number measure, this lag is not an issue because the serious injury measures and reported outcomes are based on data contained in the State's motor vehicle crash database. The NPRM solicited comments specific to the time lag for the fatality measures, any impacts the time lag may have on a State DOT's ability to establish its targets, and any suggestions that could help address the time lag. The AASHTO expressed support for the use of the FARS database but noted concern with the timely availability of FARS data. Caltrans, Connecticut, Florida, Missouri, Oregon, and Rhode Island DOTs, as well as the DVRPC, New York Metropolitan Transportation Council (NYMTC), Santa Cruz County Regional Transportation Commission, SRTA, Southeast Michigan Council of Governments (SEMCOG), and the Tri-State Transportation Campaign (New York, New Jersey, Connecticut) also raised this concern. Many of these agencies indicated that without an improvement in the time lag it would be difficult for States and MPOs to develop reasonable targets. The AASHTO and several States who supported AASHTO suggested that to reduce the time lag, States should be allowed to self-certify their fatality and serious injury data. The FHWA believes that it is important to preserve the integrity of the national data wherever possible. Therefore, FHWA does not believe it is appropriate to allow States to use State-certified fatality data, because such an approach would introduce variability.

The SEMCOG and Pennsylvania DOT also expressed concern that a 3-year time lag between a given fiscal year and when the FARS and HPMS data are available for assessment of performance from that fiscal year, might result in the State being penalized in the future for something that may have already been corrected, even with the 5-year rolling average. They also suggested that the time lag may be such that projects may already have been implemented that correct the safety issue before the evaluation of significant progress. Finally, there is a perception by some State and local agencies, such as Caltrans and NYSAMPO, that because the data being assessed reflect past performance, the regulation does not meet the intent of MAP–21. Of the comments submitted, only Washington State DOT indicated that the lag time between establishing a target and reporting would not specifically be a problem.

The FHWA agrees that the time lag is an issue and has added the use of FARS ARF if Final FARS is not available to significantly reduce the time lag to assess whether States have met or made significant progress toward meeting their targets. Regardless, any performance management program relies on an evaluation step that must ''look back'' after programs and policies are applied and an outcome has occurred. Given the cyclical nature of a performance management framework (establish targets, implement policies and programs, document performance), target evaluation will always occur during or after the time States establish the next target. Each new opportunity to document and evaluate performance will allow States, MPOs, and FHWA to understand the impact of different policies, programs, and strategies on achieving targets and on attaining the national goal. This improved understanding can be applied in future performance management cycles. In this rule, FHWA has reduced the time lag by 1 year from what was proposed in the NPRM, so lessons from past performance can be applied sooner. This change is discussed further in § 490.211(a).

Paragraph (a)(3) requires that State DOTs establish targets that represent the anticipated performance outcome for all public roadways within the State regardless of ownership or functional classification. Rhode Island and Washington State expressed that there may be differences between the requirements to report fatalities on ''all public roads'' and the data available in FARS. For example, drive aisles and circulating roads in parking lots are included in FARS data. The FHWA acknowledges that FARS may include a very limited number of fatal crashes that do not occur on ''public roads'' as defined in the HSIP,[31] since FARS includes all crashes occurring on ''trafficways,'' [32] which does include drive aisles and circulating roads. The slight differences between the two terms could result in FARS including a fatal crash that did not occur on a ''public road'' as defined in the HSIP. In the definitions section (§ 490.205), FHWA modified the definition of FARS to account for this difference. The NHTSA believes such occurrences are extremely small. However, NHTSA has never quantified the number of such occurrences, since information on whether the trafficway meets the HSIP definition of ''public road'' is not collected in FARS. Nonetheless, since FARS is the recognized standard as a nationwide census of fatal injuries suffered in motor vehicle traffic crashes and is already used by the States for reporting fatalities, FHWA retains FARS as the data source for assessing whether a State has met or made significant progress toward meeting its fatality and fatality rate performance targets and the non-motorized fatality number portion of the non-motorized fatality and non-motorized serious injury performance target. States should be aware that FHWA will use FARS as the data source for these assessments and factor that knowledge, including the potential including of a fatal crash that does not occur on a ''public road,'' into their process for establishing targets.

Virginia DOT recommended that the definition of ''public roadways'' be further clarified in this rulemaking, FHWA guidance, and in the MIRE. Virginia DOT suggested that by requiring performance targets to represent performance outcomes for all ''public roadways within the State,'' the proposed regulation would seem to require reporting and including fatality and serious injury data from and performance of Federal lands roadways, which may not be available to all State agencies. The FHWA confirms that ''all public roads'' includes Federal lands roadways within the State, per 23 CFR part 924. Virginia DOT also indicated that it is unclear as to whether the definition of ''public road'' includes public alleys and other service type laneways, typical in cities, and that inclusion of roadway inventory, traffic volumes and crashes for all public alleys would place additional compliance burdens on States. The FHWA confirms that the definition of a ''public road'' in 23 CFR part 924 includes crashes occurring on these facilities and that because States already collect crash data on these facilities, no additional burden will be realized in carrying out this requirement. The MAP–21 legislation requires that the safety performance targets apply to all public roads, since 23 U.S.C. 150(c)(4) requires performance measures for the purpose of carrying out the HSIP and the purpose of the HSIP is to ''achieve a significant reduction in traffic fatalities and serious injuries on all public roads, including non-State owned public roads and roads on tribal land'' (See 23 U.S.C. 148(b)(2)). In addition, 23 U.S.C. 150(b)(1) established the national safety goal ''to achieve a significant reduction in traffic fatalities and serious injuries on all public roads.'' In addition to this final rule, FHWA is issuing a final rule for the HSIP (23 CFR part 924) that requires all public roads to be included in the HSIP. The types and ownership of roads

[31] 23 CFR 924.3.

[32] *2013 FARS/NASS GES Coding and Validation Manual,* December 2014.

included in the term ''public road'' are defined in that rule. To clarify that this rule uses the same definition, FHWA adds to this rule in § 490.205 the definition of public road as it is defined in 23 CFR part 924.

The ARC, AMBAG, and the NYSAMPO suggested that the quality, accuracy, and availability of serious injury data for roadways owned and maintained by local agencies present several challenges in the measurement and target establishment process. As discussed in the NPRM, FHWA recognizes that there is a limit to the quality, accuracy, and availability of some data, as well as to the direct impact the State DOT can have on the safety outcomes on all public roadways. State DOTs and MPOs need to consider this uncertainty in the establishment of their targets.

As proposed in the NPRM, paragraph (a)(4) requires that targets established by the State DOTs begin to be reported in the first HSIP annual report that is due after 1 year from the effective date of this final rule and in each subsequent HSIP annual report thereafter. The AASHTO and the Arizona, Missouri, and Tennessee DOTs, as well as NYSAMPO were in general agreement with the reporting requirements. The FHWA adopts this language in the final rule.

The FHWA revises paragraph (a)(5) from the proposal in the NPRM to require that for the purpose of evaluating the serious injury and non-motorized serious injury targets States are to report at a minimum the most recent 5 years of serious injury and non-motorized serious injury data, as compared to the 10 years proposed in the NPRM, in their annual HSIP report (See 23 CFR part 924). The FHWA reduces the number of years of data required to reflect comments from State DOTs, such as Texas DOT, which reported that the State does not archive data back as far as the 10 years proposed in the NPRM, as well as a comment from ATSSA that many States have not archived their data for the last 10 years and that a 5-year archive is common for many States. In addition, 5 years of data will be sufficient for FHWA to assess whether States met or made significant progress toward meeting targets using the new methodology in that portion of the regulation. As part of this change, FHWA removes proposed paragraph (a)(5)(i) regarding the years required for the 10 years of data. However, FHWA encourages States to report as many years of additional crash data as they find appropriate for carrying out the HSIP. The FHWA adds the requirement for non-motorized serious injuries to correspond to the added performance target for non-motorized fatalities and serious injuries. The FHWA includes in paragraph (a)(5) (paragraph (a)(5)(ii) in the NPRM) the requirement that serious injury data be either MMUCC compliant or converted to KABCO system (A) to provide consistency throughout the regulation.

In response to comments from AASHTO, FHWA revises paragraph (a)(6) to clarify that, unless approved by FHWA, a State DOT shall not change one or more of its targets for a given year once it has submitted its target in the HSIP annual report. The AASHTO indicated that the regulation needs to clearly state that a State does not need FHWA approval to change its target in a subsequent year and that the restriction precluding a State from modifying its HSIP targets ''unless approved by FHWA'' once the target is submitted in the State's HSIP annual report applies only for a given year. The FHWA agrees with AASHTO that an important part of a performance management approach is to periodically evaluate targets and adjust them to reflect risks, revenue expectations, and strategic priorities. Since this rule requires States to establish safety performance targets each year, FHWA does not believe any changes are necessary to the regulation to allow States to change targets in subsequent years. If a State submits a target for CY 2017 in its 2016 HSIP report, it cannot change that CY 2017 target without approval from FHWA and from NHTSA for the common performance measures in the HSP because these targets are identical. The State will establish a new target for CY 2018 in its 2017 HSIP report.

The FHWA revises § 490.209(b) to clarify that in addition to targets described in § 490.209(a) (statewide targets), State DOTs may establish additional targets for portions of the State to give the State flexibility when establishing targets and to aid the State in accounting for differences in urbanized and non-urbanized areas consistent with 23 U.S.C. 150(d)(2). Nevada County, CA suggested that while additional measures may be appropriate, depending on the unique circumstance in a jurisdiction, all areas should be required to monitor the same four basic measures. It was FHWA's intention in the NPRM to require State DOTs to establish targets for each of the performance measures proposed, yet allow States to choose to also establish different performance targets for urbanized and non-urbanized areas. The revised language in this final rule is meant to clarify that intent. The FHWA believes that this approach appropriately implements 23 U.S.C. 150(d)(2), providing that States may choose to establish different performance targets for urbanized and non-urbanized areas. The MARC and the Rails-to-Trails Conservancy supported the concept of separating urbanized and non-urbanized areas for the purpose of performance measures, whereas the Tennessee DOT did not believe it is appropriate to create separate performance measures. Texas DOT requested clarification on how population growth would be accommodated. The SEMCOG requested clarification about how a change in the functional classification could affect the performance measure outcomes. As discussed in the NPRM, the U.S. Census Bureau defines urbanized area boundaries based on population after each decennial census. After the U.S. Census Bureau designates urbanized area boundaries, each State may adjust those Census-defined urbanized areas. While FHWA requests that States complete the process to adjust urbanized area boundaries within 2 years after the Census-defined boundaries are published, urbanized area boundaries could change on varying schedules. Designation of new urbanized areas or changes to the boundary of existing urbanized areas may lead to changes in the functional classification of the roads within those areas. Therefore, changes to the urbanized area boundaries affect the scope of the urbanized and non-urbanized targets.

Each performance measure in this rule is based on calendar year data. Section 490.209(b)(1) requires States, if they choose to establish additional targets, to identify the urbanized areas and non-urbanized area boundaries for each calendar year used for these targets. States must declare and describe these boundaries in the State HSIP annual report required by 23 CFR part 924. States should consider the risk for urbanized area boundary changes when establishing any urbanized area or non-urbanized areas target.

For example, the U.S. Census Bureau is expected to release new urbanized area boundaries in 2022, as a result of the 2020 census. A State may opt to establish an urbanized area fatality number target for the 5-year rolling average ending in 2023 in its HSIP report due August 2022. The State must establish its 2023 target using the number of fatalities in the urbanized area as that urbanized area was defined for each year in the 5-year rolling average. So, in the 5-year rolling average ending in CY 2023, the urbanized area

boundary for years 2019, 2020, and 2021 is the one based on, or adjusted from, the 2010 census. For years 2022 and 2023, the urbanized area boundary is the one based on, or adjusted from, the 2020 census. The FHWA intends to issue additional guidance regarding the voluntary establishment of performance targets for urbanized and non-urbanized areas.

The FHWA adds four paragraphs to the final rule to provide States that decide to establish these targets with more specific information regarding requirements for these additional targets. Generally, a State DOT could establish additional targets for any number and combination of urbanized areas and could establish a target for the non-urbanized area for any or all of the measures described in paragraph (a). Paragraph (b)(1) requires States to declare and describe the boundaries used to establish each additional target in the State HSIP annual report (23 CFR part 924).

Paragraph (b)(2) indicates that States may select any number and combination of urbanized area boundaries and may also select a single non-urbanized area boundary for the establishment of additional targets. This provision is different from that proposed in the NPRM, which allowed only one aggregated urbanized area target for all urbanized areas in the State. The NPRM limited States to one urbanized target for all urbanized areas in the State so that a State could not establish an unmanageable number of urbanized area targets, nor could it use success in meeting those targets to overall make significant progress even if the State did not meet its statewide safety targets. Smart Growth America and Transportation for America suggested that the additional, optional targets for portions of the State to account for urbanized and non-urbanized areas be treated differently from the statewide targets. Similarly, AASHTO, Iowa, Maine, Missouri, New York, Vermont, and Washington State DOTs preferred that only the statewide targets be included in the significant progress assessment.

The FHWA agrees and is not including assessment of the optional targets in determining whether the State met or made significant progress toward meeting its targets, as was proposed in the NPRM. Removing the optional targets from the significant progress assessment results in greater nationwide consistency in both the process of conducting the assessment and the transparency of the results. Because the optional targets are now not included in assessing whether the State met or made significant progress toward meeting its targets, FHWA is able to provide States the flexibility to establish separate targets for each urbanized area, as States determine appropriate. The FHWA also believes that this approach may encourage States to establish these additional targets. For States that want to establish a non-urbanized target, they are still restricted to a single non-urbanized target because there is no national standard for sub-dividing non-urbanized areas in a State. Establishing these additional targets could provide for additional transparency and accountability in a State's performance management program, and they could aid the State in accounting for differences in performance in urbanized areas and the non-urbanized area.

In paragraph (b)(3), FHWA requires that boundaries used by the State DOT for additional targets be contained within the geographic boundary of the State. Finally, in paragraph (b)(4), FHWA requires that State DOTs separately evaluate the progress of each additional target and report progress for each in the State HSIP annual report (23 CFR part 924). This provision would meet the requirements of 23 U.S.C. 150(e)(3).

As proposed in the NPRM, FHWA establishes in § 490.209(c) that MPOs shall establish their performance targets for each of the measures established in § 490.207(a), where applicable, in a manner that is consistent with elements defined in paragraphs (c)(1) through (5). Paragraph (c)(1) requires that MPOs establish their targets not later than 180 days after the State submits its annual HSIP report in which the State's annual targets are established and reported. Washington State DOT, the AMPO, and the Puget Sound MPO supported the 180-day timeframe for MPOs to establish targets either through supporting the State target or by establishing targets unique to a metropolitan area. Caltrans did not support the 180-day timeframe because their experience shows that MPOs and Tribal governments will need resources, data expertise, and substantial coordination to establish targets, which cannot be accomplished within 180 days. The SCAG indicated that it is reasonable to require States to report annual targets, because State DOTs are already responsible for issuing the HSIP on an annual basis, yet most MPOs do not administer safety improvement plans on an annual basis, nor do they receive funding to do so. The statute (23 U.S.C. 134(h)(2)(C)) requires MPOs to establish targets not later than 180 days of State DOTs establishing their targets. Therefore, FHWA retains that requirement in this final rule.

In the NPRM, FHWA requested stakeholder comment on alternative approaches to the required coordination with the long range metropolitan and statewide and nonmetropolitan transportation planning processes. The SCAG recommended that the MPO reporting requirements be aligned with the respective metropolitan transportation planning cycle of each MPO, which SCAG stated is consistent with the ''Statewide and Nonmetropolitan Transportation Planning; Metropolitan Transportation Planning'' NPRM released by FHWA and FTA on June 2, 2014 (FHWA–2013–0037).[33] That NPRM for 23 CFR part 450 proposed that MPOs reflect performance targets required by MAP–21 in their metropolitan transportation plans. The NYSAMPO also suggested that establishing targets annually does not fit in with the time horizon of long range plans and that the time frame for target reporting in this rule is far more frequent than currently required on anything similar. They also questioned why MPOs should establish their targets if they are not held accountable and indicated this requirement may force the MPOs to choose to support the State target each year (due to time and resource limitations) and align project and program funds to State supported initiatives at the expense of the regional/local context at each MPO. The MARC expressed similar concern that annual target establishment would be overly burdensome and inconsistent with long-range planning. Washington State DOT commented that there should be an emphasis on MPO participation in development of the SHSP.

The FHWA emphasizes that targets established under this final rule should be considered as interim condition/performance levels that lead toward the accomplishment of longer-term performance expectations in the State DOT's and MPO's long-range transportation plan. Furthermore, under 23 U.S.C. 148(a)(11)(A)(ii), States are required to consult with MPOs in the development of the State SHSP, and both should recognize that the annual targets should logically support, as interim levels of performance, the safety goals in that plan. Finally, 23 U.S.C. 134(h)(2)(D) and 135(d)(2)(C) require States and MPOs to integrate into the transportation planning process the goals, objectives, performance measures

[33] The Statewide and Nonmetropolitan Transportation Planning; Metropolitan Transportation Planning NPRM: *http://www.regulations.gov/#!documentDetail;D=FHWA-2013-0037-0001.*

and targets described in other State transportation plans and processes required as part of a performance based program. In addition, the Planning NPRM proposed to require States to consider the performance measures and its performance targets when developing its planning documents and making investment priorities. State DOTs and MPOs will be expected to use the information and data generated as a result of this new regulation to better inform their transportation planning and programming decisionmaking. In particular, FHWA expects that these new performance requirements will help State DOTs and MPOs make better decisions on how to use their resources in ways that will result in the greatest possible reduction in fatalities and serious injuries, as well as to achieve their other performance targets. The FHWA acknowledges that we received several comments related to the planning process. For additional information on how the new performance management requirements fit into the statewide and metropolitan planning process, please review the Planning NPRM.[34]

The FHWA adds paragraph (c)(2) to clarify that the MPO targets are established annually for the same calendar year period that the State targets are established. In paragraph (c)(3), FHWA clarifies the language in this final rule from what was proposed in paragraph (c)(2) in the NPRM to indicate that after the MPOs within the State establish the targets, FHWA expects that upon request, the State DOT can provide the MPOs targets to FHWA.

The AMPO and individual MPOs, including ARC, Hampton Roads Transportation Planning Organization, Puget Sound and Tennessee MPOs, as well as Iowa, Michigan, Tennessee, and Vermont State DOTs submitted comments regarding paragraph (c)(4) (paragraph (c)(3) in the NPRM). The AMPO expressed concern that the expectation of this requirement, as written in the NPRM, was that MPOs would program the very limited, regionally allocated, Surface Transportation Program (STP) [35] funds toward additional specific projects in support of the State's targets. The AMPO suggested that MPOs be allowed to establish a numerical target for individual performance measures and support the State target on remaining targets. Recognizing the often limited STP funds allocated to MPOs and the desire of some MPOs to have flexibility to establish their own targets, FHWA modifies paragraph (c)(4) to indicate that MPO targets shall be addressed by either (i) agreeing to plan and program projects so that they contribute toward the accomplishment of the State DOT safety targets or (ii) committing to quantifiable targets for the metropolitan planning area. To provide MPOs with flexibility and to be respectful of the potential burden of establishing individual targets, FHWA allows MPOs to support all the State targets, establish specific numeric targets for all of the performance measures, or establish specific numeric targets for one or more individual performance measures and support the State target on other performance measures.

Caltrans and Washington State DOTs indicated that some MPOs do not have the capability or the finances to collect volume data; therefore it is difficult for them to have appropriate data for all public roads. To address this comment, in this final rule, FHWA adds paragraph (c)(5) that requires MPOs that establish targets for rates (fatality rate or serious injury rate) to report the VMT estimate used for such targets and the methodology used to develop the estimate. The methodology should be consistent with that used to satisfy other Federal reporting requirements, if applicable. In the NPRM, FHWA proposed that MPO VMT be derived from the HPMS. However, the HPMS does not provide sufficient information to derive complete VMT in an MPO planning area, since local roadway travel is only reported to HPMS in aggregate for the State and for Census urbanized areas. Therefore, consistent with the overall goals of performance management identified in 23 U.S.C. 150(a) to increase transparency and accountability, FHWA requires MPOs that establish rate targets to report the methodology used to estimate the MPO VMT. Many MPOs collect VMT data within their planning area and estimate VMT for the transportation planning process or for transportation conformity required under the Clean Air Act. The MPO VMT estimate used for rate targets for this rule should be consistent with these or other Federal reporting requirements, if applicable. Consistency with other Federal reporting requirements and existing MPO efforts will minimize the burden on MPOs that choose to establish rate targets and increase the transparency of the MPO target establishment process. The FHWA will provide technical assistance to those MPOs that estimate their VMT and will review MPO VMT estimates as part of the MPO target achievement review process established in 23 CFR part 450.

As proposed in the NPRM, FHWA adopts paragraph (c)(6) that requires MPO targets established under paragraph (c)(4) to represent all public roadways within the metropolitan planning area boundary regardless of ownership or functional classification. Washington State DOT requested additional clarification in the language to clarify that the intention is not to have different targets based on functional class. The Washington State DOT further explained that most MPOs are interested in having the targets applied to all public roads within the MPO boundary regardless of functional class and that it does not support different targets for different functional classes of roadways. The FHWA agrees. An MPO is not expected to establish separate targets for each functional classification. It is required to support the State's target or establish its own targets only for the five performance measures for which the State is required to establish targets under § 490.209(a). The MPO targets must include all public roads within the planning area, regardless of their functional classification. The FHWA retains the language, as proposed, in the final rule.

In paragraph (d), FHWA requires State DOTs and MPOs to coordinate on the establishment of the State targets or the MPO's decision to either agree to plan or program projects so that they contribute toward meeting the State targets or commit to their own quantifiable targets. The Washington State DOT suggested that the NPRM was unclear as to whether it would be appropriate for either the State target or the MPO target to have different boundaries and noted that the NPRM did not require coordination and agreement on target establishment. The FHWA believes it is appropriate for the State target and the MPO target to have different boundaries, since the metropolitan planning area does not necessarily coincide with State lines or urbanized area boundaries.

As proposed in the NPRM, and consistent with 23 U.S.C. 134(h)(2)(B)(i)(II) and 23 U.S.C. 135(d)(2)(B)(i)(II), FHWA requires coordination between the State DOT and relevant MPOs on target establishment in this rule in paragraph (d)(1) to ensure consistency, to the maximum extent practicable, but this

[34] The Statewide and Nonmetropolitan Transportation Planning; Metropolitan Transportation Planning NPRM: *http://www.regulations.gov/#!documentDetail;D=FHWA-2013-0037-0001.*

[35] Section 1109 of the FAST Act (Pub. L. 114–94) converts the Surface Transportation Program found at 23 U.S.C. 133 into the Surface Transportation Block Grant Program.

rule does not require the MPO and State to reach a consensus agreement on their targets. The FHWA expects that States and MPOs will establish a process by which they will meet the coordination requirements in this rule. States and MPOs are expected to follow their established processes, as part of the on-going coordination that occurs during the statewide and metropolitan transportation planning processes. The Planning NPRM [36] proposed requiring coordination, to the maximum extent practicable, among MPOs and State DOTs on their target setting efforts. The FHWA asked a series of questions in the Planning NPRM related to coordination among MPOs and State DOTs relating to target setting. As a result, FHWA expects to provide information in the preamble to the Planning Final Rule that will further describe how MPOs and States DOTs could coordinate on target setting efforts. Further, FHWA is conducting research and developing guidance documents and training courses to implement the new performance management requirements. In these materials, FHWA will emphasize the importance of MPO and State DOT coordination during target setting; provide examples of noteworthy target setting coordination efforts, and reference tools that States and MPOs can use to improve coordination.

In the NPRM, FHWA specified that ''relevant'' MPOs coordinate with the State because that is the requirement in 23 U.S.C. 135(d)(2)(B)(i)(II). Michigan and Washington State DOTs, Puget Sound MPO, NYSAMPO, and AMPO all requested clarification of the word ''relevant.'' For the measures in this rule, relevant MPOs are any MPO where all or any portion of the MPO planning area boundary is within the State boundary. The AMPO also expressed concern for potential issues with how multi-State MPOs establish targets, coordinate and report them. Tennessee DOT also questioned how MPOs should coordinate one target for the urbanized area while addressing performance targets for two or more State DOTs. The FHWA adds paragraph (d)(2) to address situations where metropolitan planning areas extend across multiple States. This addition clarifies that MPOs with multi-State boundaries that agree to plan or program projects so that they contribute toward State targets are to plan and program safety projects in support of the State DOT targets for each State that their metropolitan planning area covers. For example, MPOs that extend into two States are to contribute toward two separate sets of targets—one for each State. Through coordination with the State (or States for multi-State MPOs), MPOs that elect to establish quantifiable targets for their metropolitan planning area should consider each State's target and ensure consistency, to the maximum extent practicable, when establishing the MPO targets. An MPO with a planning area that crosses into two States may choose to agree to plan and program projects so that they contribute toward the State target for one State and establish a quantifiable target for the planning area in the other State.

Section 490.211 Determining Whether a State Department of Transportation Has Met or Made Significant Progress Toward Meeting Performance Targets

The FHWA changes the title and language within this section to provide consistency with legislative language regarding determining whether a State has met or made significant progress toward meeting its targets. Specifically, FHWA revises the terminology to reflect ''met or made significant progress toward meeting performance targets'' rather than ''achieving'' targets. The FHWA also adds paragraph numbering to improve readability of this section.

As proposed in the NPRM, in paragraph (a), FHWA lists the data sources that will be used in the determination whether a State has met or made significant progress toward meeting its targets. Based on a review of the comments related to data lag and FHWA's own desire to decrease the lag, FHWA revises § 490.211(a) to reflect that meeting or making significant progress toward meeting targets will be determined based on the most recent available Final and FARS ARF data for the fatality number, fatality rate, and for the non-motorized fatality number. Final FARS will be used for all years for which it is available when FHWA makes an assessment of whether a State has met or made significant progress toward meeting its targets. If Final FARS is not available—usually the last year of the 5-year rolling average for the target being assessed—FARS ARF will be used. The FARS ARF is published approximately 1 year before the Final FARs report, and as a result, using FARS ARF data reduces the data time lag by approximately 1 year. The FHWA believes that improvements in data systems will also enable the HPMS data to be available in this timeframe. As a result, FHWA is confident that Final FARS, FARS ARF, and HPMS data can be available within 12 months of the end of the calendar year for which the targets are being assessed. The FHWA believes this change addresses the concern over the time lag for assessing whether a State has met or made significant progress toward meeting its targets to the maximum extent possible.

As an example to illustrate the time between establishment of State targets and national and State data source availability to assess whether the State met or made significant progress toward meeting its targets, targets that represent anticipated safety performance measures outcomes for CY 2018 would need to be established by the State DOT and reported in its HSIP annual report due August 31, 2017. For the purposes of establishing targets, States are encouraged to use any and all data available, including data that go beyond traditional datasets, such as FARS, HPMS, and State crash databases to include current and pending legislation, political factors, available resources, etc. The FHWA will assess the targets established by the State for CY 2018 when the CY 2018 FARS and HPMS data become available in approximately December of 2019, 1 year earlier than proposed in the NPRM. The FARS ARF will be used for CY 2018 fatality data if Final FARS is not available. Final FARS data for CY 2014 to CY 2017 is expected to be available, as is CY 2014 to CY 2018 HPMS data. The State serious injury number and rate data used to evaluate the CY 2018 targets will be reported in the HSIP report due August 31, 2019. The FHWA will assess whether States met or made significant progress toward meeting their CY 2018 targets and report findings to the States by March 31, 2020.

Paragraphs (a)(3) and (6) are added to indicate that FHWA will use the most recent available Final and FARS ARF data for the non-motorized fatality number and State reported data for the non-motorized serious injuries number, to evaluate the non-motorized performance target that FHWA adds in this final rule. To also address the non-motorized performance target, FHWA adds in paragraph (b) that non-motorized serious injury data will be taken from the HSIP report.

Paragraph (c) of the final rule (paragraph (b) of the NPRM) describes the process by which FHWA will evaluate whether a State DOT has met or made significant progress toward meeting performance targets. As discussed earlier in the *Met or Made Significant Progress Toward Meeting Targets Evaluation* section, FHWA adopts a revised methodology from what was proposed in the NPRM to address a wide variety of comments. In paragraph (c)(1), FHWA indicates that optional additional targets (urbanized and non-urbanized targets) established

[36] *www.regulations.gov* (FHWA–2013–0037).

under § 490.209(b) will not be evaluated for whether the State met or made significant progress toward meeting its targets. The FHWA believes that excluding these additional targets from the significant progress assessment provides an opportunity for some flexibility with respect to these targets and may encourage State DOTs to establish these additional targets. In paragraph (c)(2) FHWA indicates that a State DOT is determined to have met or made significant progress toward meeting its targets when at least four of the five performance targets are met or the outcome for the performance measure is better than the 5-year rolling average data for the performance measure for the year prior to the establishment of the State's target (*i.e.,* baseline safety performance), as described previously in the example for Table 2.

In paragraph (d) of the final rule (paragraph (c) of the NPRM), FHWA adopts the NPRM language with a clarification to specify that if it determines that a State has not met or made significant progress toward meeting its safety targets, the State would need to comply with 23 U.S.C. 148(i) for the subsequent fiscal year. Missouri and Rhode Island DOTs objected to this ''penalty,'' because their STIP will already have been fully committed by the time the significant progress evaluation occurs and the State is notified that the provisions of 23 U.S.C. 148(i) apply. The FHWA recognizes that the STIP is a commitment to the public regarding the projects and activities the State will implement. The FHWA also considers the targets the State establishes as a commitment to the public regarding the performance that will be achieved from those projects and activities and expects that State DOTs already maximize the efficacy of the STIP to reduce fatalities and serious injuries for all road users. The FHWA considers it reasonable to expect States to reconsider and make any necessary changes to how funds will be spent if the State fails its commitment to meet or make significant progress toward meeting its targets. The implementation plan and funding obligation requirements would further optimize safety projects in the STIP so that the State will meet or make significant progress in a following year. The FHWA added language to paragraph (d) to clarify that the 23 U.S.C. 148(i) provisions apply for the subsequent fiscal year after FHWA determines a State has not met or made significant progress toward meeting its targets. States will have several months after they are informed that the 23 U.S.C. 148(i) provisions will apply to make any necessary adjustments to the STIP to accommodate the HSIP funding requirements and to prepare and carry out their implementation plan.

As explained in the NPRM, the performance provisions in 23 U.S.C. 148(i) require that a State DOT that has not met or made significant progress toward meeting safety performance targets must: (1) Use obligation authority equal to the HSIP apportionment only for HSIP projects for the fiscal year prior to the year for which the safety performance targets were not met or significant progress was not made, and (2) submit an annual implementation plan that describes actions the State DOT will take to meet or make significant progress toward meeting its safety performance targets based on a detailed analysis, including analysis of crash types. Both of these provisions will facilitate transportation safety initiatives and improvements and help focus Federal resources in areas where Congress has deemed a national priority. In addition, these provisions help serve one of the overall goals of performance management—to improve accountability of the Federal-aid highway program (23 U.S.C. 150(a)). The implementation plan must: (a) Identify roadway features that constitute a hazard to road users; (b) identify highway safety improvement projects on the basis of crash experience, crash potential, or other data-supported means; (c) describe how HSIP funds will be allocated, including projects, activities, and strategies to be implemented; (d) describe how the proposed projects, activities, and strategies funded under the State HSIP will allow the State DOT to make progress toward achieving the safety performance targets; and (e) describe the actions the State DOT will undertake to meet or make significant progress toward meeting its performance targets.

The AASHTO and the States that supported AASHTO expressed concern that 23 U.S.C. 148(i) be implemented consistently and asked for clarification on several issues, including whether States subject to the 23 U.S.C. 148(i) provisions must obligate the funds in a single fiscal year or can program the funds over several years. The 23 U.S.C. 148(i)(1) states that ''[the State shall] use obligation authority equal to the apportionment of the State for the prior year under section 104(b)(3) only for highway safety improvement projects. . . .'' The FHWA believes that, under this provision, States must obligate such HSIP funds during the next fiscal year after the State is notified that FHWA determined it did not meet or make significant progress toward meeting its targets. This provision reduces flexibility associated with a States' HSIP funds [37] and requires that those funds be focused on safety projects. In addition, this interpretation is consistent with how FHWA has proposed to implement the requirements related to the bridge and pavement minimum condition.[38] The FHWA will require the funds to be obligated in the next fiscal year, rather than the fiscal year when the State is notified, to allow the State time to plan and program projects so that the required obligation authority can be used on HSIP projects. Likewise, when FHWA notifies a State that it has met or made significant progress toward meeting its performance targets, that determination will be applied to the State's obligation authority for the upcoming fiscal year, and the implementation plan will be due by the beginning of that fiscal year.

The AASHTO and Minnesota DOT expressed concern that States may have difficulty delivering a full year's apportionment in these circumstances. The FHWA appreciates that concern and will work with affected States to expedite any necessary changes or project approvals. In order to give effect and meaning to 23 U.S.C. 148(i), which holds States accountable for making performance targets, FHWA believes it is appropriate to require that the obligation authority be used within the next fiscal year. As discussed earlier, FHWA believes this approach is consistent with the national goal of significantly reducing traffic fatalities and serious injuries. It would result in reducing flexibility associated with a State's HSIP funds and provide that the State focus those funds on safety projects. However, FHWA notes that while a State will be required to use obligation authority equal to a prior year HSIP apportionment on HSIP projects, the State retains flexibility on the remainder of its obligation authority.

The DVRPC asked for clarification on whether the 23 U.S.C. 148(i) provisions only apply to States that are determined

[37] 23 U.S.C. 148(i)(1) requires States to ''use obligation authority equal to the apportionment of the State for the prior year under section 104(b)(3) only for highway safety improvement projects under this section until the Secretary determines that the State has met or made significant progress towards meeting the safety performance targets of the State.''

[38] NPRM for the National Performance Management Measures; Assessing Pavement Condition for the National Highway Performance Program and Bridge Condition for the National Highway Performance Program 80 FR 326 (proposed January 5, 2015) *http://www.gpo.gov/fdsys/pkg/FR-2015-01-05/pdf/2014-30085.pdf.*

to not meet or make significant progress toward meeting their targets, and if the obligation authority restrictions are only for existing safety funds. The Oklahoma DOT asked for clarification on the intent of the provisions. As stated above, only States that do not meet or make significant progress toward meeting their targets are subject to the 23 U.S.C. 148(i) provisions in the subsequent fiscal year. In that year, such States must use obligation authority equal to the HSIP apportionment only for HSIP projects for the fiscal year prior to the year targets were established. States retain the authority to decide which HSIP projects will be obligated. The implementation plan should guide the State's project decisions so that the combined 23 U.S.C. 148(i) provisions lead to the State meeting or making significant progress toward meeting its safety performance targets in subsequent years.

The AASHTO commented that the implementation plan could lead to redundant, onerous reporting that adds no value to improving safety. The FHWA intends to issue additional guidance to States to meet the legislative requirements for the implementation plan while limiting redundancy and maximizing the opportunity to improve safety performance and States' ability to meet their targets.

The AASHTO and Missouri DOT also recommended that States be granted a waiver if a State can demonstrate that it is using all its obligation authority under 23 U.S.C. 104(b)(3), and that obligating additional amounts up to the apportioned amount will negatively affect the State's ability to meet or make significant progress toward meeting other required performance targets. The FHWA believes that both the plain language and intent of the statute (as this is one of the provisions where States are accountable for their targets) do not authorize FHWA to issue such waivers.

While Missouri DOT commented that the ''penalties'' imposed by the 23 U.S.C. 148(i) provisions are significant; many others, including the LAB and its supporters, the Tri-State Transportation Campaign, Smart Growth America and its supporters, and one citizen, commented that the provisions are meaningless and offer no real incentive for States to take the process seriously. The FHWA expects States and MPOs to be sincere in their efforts to implement performance management and to contribute to the national safety goal, and FHWA will implement these regulations to that end. This rule includes the maximum incentive provided for in the statute for States to support the national safety goal.

The following example illustrates how these provisions would be carried out. A State DOT establishes targets for performance measures for CY 2018 and reports them in its 2017 HSIP annual report due by August 31, 2017. The targets established by the State for CY 2018 will be evaluated by FHWA when the CY 2018 FARS and HPMS data become available in approximately December of 2019, 1 year earlier than proposed in the NPRM. The FARS ARF will be used if Final FARS is not available. The serious injury data used for determining whether the State met or made significant progress toward meeting its serious injury targets will be taken from the State's 2019 HSIP report due by August 31, 2019. The FHWA will make a determination, inform the State DOT if it met or made significant progress toward meeting its CY 2018 safety performance targets, and send results to the State by March 31, 2020. If FHWA determines that the State did not meet or make significant progress toward meeting its CY 2018 safety performance targets, 23 U.S.C. 148(i) will apply for FY 2021. For FY 2021, the State would need to use obligation authority equal to the HSIP apportionment only for HSIP projects for FY 2017 (the fiscal year prior to the year for which the target was established) and submit an annual implementation plan that describes actions the State DOT will take to meet or make significant progress toward meeting targets based on a detailed analysis, including analysis of crash types. The implementation plan is due to FHWA before October 1, 2020, the beginning of FY 2021. Similarly, by March 31, 2021, FHWA will make a determination and inform the State DOT if it met or made significant progress toward meeting its CY 2019 safety performance targets. If the State has met or made significant progress toward meeting its targets, the State will still be required to use its FY 2021 obligation authority equal to the HSIP apportionment only for HSIP projects for FY 2017. For FY 2022, FHWA would not place any restrictions on the State's use of obligation authority since the State met or made significant progress toward meeting its CY 2019 safety performance targets.

For any year FHWA determines that a State DOT has met or made significant progress toward meeting its safety performance targets, that State DOT would not be required to use obligation authority or submit an implementation plan for the subsequent year. If, in some future year, FHWA determines that a State DOT does not meet or make significant progress toward meeting performance targets, the State DOT would at that time need to submit an implementation plan as well as use obligation authority as described above.

In paragraph (e) of the final rule (paragraph (d) of the NPRM), FHWA indicates that it will first evaluate whether States have met or made significant progress toward meeting their targets when the performance data are available for the year for which the first targets are established—the end of the following calendar year. For example, data to evaluate CY 2018 targets will be available at the end of CY 2019. (FARS ARF will be used if Final FARS is not available.) The FHWA will make a determination and inform the State DOT if it met or made significant progress toward meeting its CY 2018 safety performance targets and send results to the State by March 31, 2020. The FHWA will make determinations annually thereafter. The language in the final rule is slightly different from what was proposed in the NPRM to provide consistency with statutory language regarding determining whether a State has met or made significant progress toward meeting its targets and because FHWA can make the evaluation earlier by using FARS ARF data if Final FARS is not available.

Section 490.213 Reporting of Targets for the Highway Safety Improvement Program

As proposed in the NPRM, FHWA adopts in § 490.213(a) reporting requirements, such that the State DOT reports its safety performance measures and targets in accordance with 23 CFR 924.15(a)(1)(iii) in the HSIP final rule published elsewhere in this issue of the **Federal Register**. The information in the HSIP reports, which are published on FHWA's Web site,[39] will improve the visibility and transparency of State fatal and serious injury data. In addition, FHWA is in the process of creating a new public Web site to help communicate the national performance story. The Web site will likely include infographics, tables, charts, and descriptions of the performance data that the State DOTs would be reporting to FHWA. The FHWA acknowledges that we received several comments related to the HSIP rule. For additional information on the new HSIP requirements, please review the HSIP

[39] *http://safety.fhwa.dot.gov/hsip/reports/.*

final rule published elsewhere in this issue of the **Federal Register**.[40]

In the NPRM, FHWA proposed that the manner in which MPOs report their established safety targets be documented in the Metropolitan Planning Agreement, which is regulated under 23 CFR part 450. The AASHTO, Iowa, and New York State DOTs suggested that the language regarding targets and Metropolitan Planning Agreements be changed to specify that State DOTs and MPOs agree to a reporting methodology, working within the intent of the established Metropolitan Planning Agreement, without requiring a modification to the Agreement. Those agencies did not support explicitly addressing a reporting methodology within the planning agreement itself, but suggested instead that each State should be able to develop a reporting system for its MPOs within the framework of the agreement. The NYSAMPO indicated that the mechanics of how targets are to be reported to the State need to be worked out with each MPO through its metropolitan planning agreement. New York State DOT indicated that because Metropolitan Planning Agreements are formal legal documents, modifying such documents would require the approval of all signatories, including executive and legal review at the State DOT level. The FHWA understands these concerns and revises § 490.213(b) to indicate that MPOs shall annually report their established safety targets to their respective State DOT, in a manner that is documented and mutually agreed upon by both parties. While the process needs to be documented, it does not need to be incorporated into the Metropolitan Planning Agreement.

In paragraph (c), as proposed in the NPRM, FHWA requires MPOs to report baseline safety performance and progress toward achievement of their targets in the system performance report in the metropolitan transportation plan, as provided in 23 U.S.C. 134(i)(2)(c). In the final rule, FHWA adds a listing of data sources upon which the safety performance measures and progress for MPOs are to be based, since the MPO VMT data source differs from the State VMT data source. The FHWA intends to issue guidance on estimating MPO VMT. The list of data sources includes the use of Final and FARS ARF data for fatalities (FARS ARF is used if Final FARS is not available), including non-motorized fatalities, the MPO VMT estimate for rates, and State reported data for serious injuries, including non-motorized serious injuries.

VI. Rulemaking Analyses and Notices

The FHWA considered all comments received before the close of business on the extended comment closing date indicated above, and the comments are available for examination in the docket (FHWA–2013–0020) at Regulations.gov. The FHWA also considered comments received after the comment closing date to the extent practicable. The FHWA also considered the HSIP provisions of the FAST Act in the development of this final rule. The FAST Act did not require additional provisions beyond those discussed in the NPRM.

Rulemaking Analysis and Notices Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures

The FHWA has determined that this action is a significant regulatory action within the meaning of Executive Order (EO) 12866 and within the meaning of DOT regulatory policies and procedures due to the significant public interest in regulations related to traffic safety. It is anticipated that the economic impact of this rulemaking will not be economically significant within the meaning of EO 12866 as discussed below. This action complies with EOs 12866 and 13563 to improve regulation. This action is considered significant because of widespread public interest in the transformation of the Federal-aid highway program to be performance-based, although it is not economically significant within the meaning of EO 12866. The FHWA is presenting an RIA (or regulatory analysis) in support of the final rule on Safety Performance Measures for the HSIP. The regulatory analysis evaluates the economic impact, in terms of costs and benefits, on Federal, State, and local governments, as well as private entities regulated under this action, as required by EO 12866 and EO 13563. The estimated costs are measured on an incremental basis, relative to current safety performance reporting practices.

This section of the final rule identifies the estimated costs resulting from the final rule—and how many serious injuries and fatalities would need to be avoided to justify this rule—in order to inform policymakers and the public of the relative value of the final rule. The complete RIA may be accessed from the rulemaking's docket (FHWA–2013–0020). Each of the three performance measure final rulemakings will include a discussion on the costs and benefits resulting from the requirements contained in each respective rulemaking; however, the third performance measure rule will provide a comprehensive discussion on the costs and benefits associated with all three performance measure rules for informational purposes.

The cornerstone of MAP–21's highway program transformation is the transition to a performance-based program. In accordance with the law, State DOTs will invest resources in projects to meet or make significant progress toward meeting performance targets that will make progress toward national goals. Safety is one goal area where MAP–21 establishes national performance goals for Federal-aid highway programs. The MAP–21 requires FHWA to promulgate a rule to establish safety performance measures.

Estimated Costs of the Final Rule

To estimate costs for the final rule, FHWA assessed the level of effort, expressed in labor hours and the labor categories, needed for State and local transportation and law enforcement agencies to comply with each component of the final rule. Level of effort by labor category is monetized with loaded wage rates to estimate total costs.

Table 3 displays the total cost of the final rule for the 10-year study period (2015–2024). Total costs are estimated to be $87.5 million undiscounted, $65.6 million discounted at 7 percent, and $76.9 million discounted at 3 percent. Costs associated with the establishment of performance targets make up 57 percent of the total costs of the final rule. This is an increase of 4 percent from the NPRM estimates resulting from costs associated with the new non-motorized fatalities and non-motorized serious injuries performance measure, added effort required for MPOs to estimate MPO-specific VMT for performance targets, a decrease in the number of MPOs expected to establish targets, and costs associated with coordination between State DOTs and MPOs. The costs in the tables assume 201 MPOs would establish their own targets, and the remaining portion would adopt State DOT targets. It is assumed that State DOTs and MPOs serving Transportation Management Areas (TMA)[41] will use staff to analyze safety trends and establish performance targets on an annual basis, and MPOs

[40] Highway Safety Improvement Program; Subchapter J—Highway Safety Rulemaking: *http://www.regulations.gov/#!docketDetail;D=FHWA-2013-0019.*

[41] A TMA is an urbanized area having a population of over 200,000 or otherwise requested by the Governor and the MPO and officially designated by FHWA or FTA. 23 U.S.C. 134(k).

not serving a TMA will adopt State DOT targets rather than establish their own safety performance targets and will therefore not incur any incremental costs. The FHWA made this assumption because larger MPOs may have more resources available to develop performance targets. The FHWA believes that this is a conservative estimate, as larger MPOs may elect not to establish their own targets for any variety of reasons, including resource availability.

TABLE 3—TOTAL COST OF THE FINAL RULE

Cost components	10-year total cost		
	Undiscounted	7%	3%
Section 490.205—Definitions	$28,227,162	$23,206,606	$25,907,994
KABCO Compliance	373,324	373,324	373,324
Minor Revisions to Database	307,828	307,828	307,828
Convert Non-KABCO Data	65,495	65,495	65,495
MMUCC Compliance	27,329,875	22,309,319	25,010,707
Modifications to Database Platform	668,053	545,330	611,363
Modifications to PAR Report	1,128,776	921,418	1,032,990
Training for Law Enforcement	25,533,045	20,842,571	23,366,353
Establish 5-Year Rolling Average	523,963	523,963	523,963
Section 490.209—Establishment of Performance Targets	50,085,525	36,440,371	43,421,875
Coordination Between State DOTs and MPOs	867,367	810,623	842,103
Establish Performance Targets	49,218,159	35,629,748	42,579,772
Section 490.211—Determining Whether a State DOT has Met or Made Significant Progress Toward Meeting Performance Targets	9,170,764	5,947,112	7,577,340
Develop an Implementation Plan	9,170,764	5,947,112	7,577,340
Total Cost of Final Rule	87,483,450	65,594,089	76,907,209

*Totals may not sum due to rounding.

The final rule's 10-year undiscounted cost ($87.5 million in 2014 dollars) increased relative to the proposed rule ($66.7 million in 2012 dollars). As discussed below, FHWA made a number of changes which affected cost.

General Updates

In the final rule RIA, FHWA updated all costs to 2014 dollars from 2012 dollars in the proposed rule. In addition, FHWA updated labor costs to reflect current BLS data. These general updates increased the estimated cost of the final rule relative to the proposed rule.

The FHWA also updated the estimated total number of MPOs to 409, which is less than the 420 MPOs used at the time that the NPRM was published. The estimated number of MPOs serving TMAs is now 201, less than the estimate of 210 in the NPRM, and the number of non-TMA MPOs is 208, less than the estimate of 210 in the NPRM. At the time the RIA was prepared for the NPRM, FHWA assumed that the 36 new urbanized areas resulting from the 2010 census would have MPOs designated for them. In reality, some of the newly designated urbanized areas merged with existing MPOs, resulting in the designation of fewer new MPOs than expected. The FHWA estimates that, on average, only the 201 larger MPOs serving TMAs will establish their own quantifiable performance targets and that the 208 smaller MPOs serving non-TMAs will choose to agree to plan and program projects so that they contribute toward the accomplishment of the State DOT safety targets. The reduction in the number of MPOs decreased the estimated costs MPOs incur to comply with the requirements of this final rule relative to the proposed rule.

Section 490.205 Definitions

The RIA estimates the cost of § 490.205 resulting from the requirements for KABCO compliance, MMUCC, 4th edition compliance, and 5-year rolling average calculations. The cost associated with these rule requirements increased from $26.3 million in the proposed rule to $28.2 million in the final rule. In addition to the general updates described above, FHWA revised the final rule RIA to reflect updated local law enforcement census data, costs associated with the new non-motorized fatalities and non-motorized serious injuries performance measure, the removal of the proposed requirement for State DOTs to compile a 10-year historical trend line, and the deferred implementation of MMUCC, 4th edition compliance (required by 36 months after the effective date of the final rule, rather than the proposed 18 months).

Section 490.209 Establishment of Performance Targets

The RIA estimates the cost of coordination between State DOTs and MPOs as well as establishing performance targets under § 490.209. The cost of this section increased from $35.3 million for the proposed rule to $50.1 million for the final rule. In addition to the general updates described above, the increase in cost is attributable to the additional costs associated with establishing the new non-motorized fatalities and non-motorized serious injuries performance measure (which added a one-time cost of approximately $180,000, and approximately $8 million over the 10 year period of analysis), the added effort required for MPOs to estimate MPO-specific VMT for performance targets (which is partially offset by a decrease in the number of MPOs expected to establish quantifiable targets), and costs of coordinating on the establishment of targets in accordance with 23 CFR part 450.

Section 490.211 Determining Whether a State DOT Has Met or Made Significant Progress Toward Meeting Performance Targets

In the RIA, FHWA estimates the cost associated with failing to meet or make significant progress toward meeting targets, as described in § 490.211. The cost of this section of the rule increased from $5.1 million in the proposed rule to $9.2 million in the final rule. In addition to the general updates described above, the increase in cost results from an increase in the estimated number of States that might not meet or make significant progress toward

meeting their targets using the new methodology included in the final rule. Based on the new methodology, FHWA conservatively assumed that 26 State DOTs will fail to meet or make significant progress toward meeting their targets, which is more than double the assumption used in the NPRM's RIA (10 State DOTs would fail to meet or make significant progress toward meeting their targets). The cost was partially offset by a reduction in the number of years the costs accrued.

In the RIA, FHWA recognizes that States will not incur incremental costs for using obligation authority equal to the HSIP apportionment only for HSIP projects for the prior year because programming decisions are already realized as part of the State's overall management of the Federal aid program.

Break-Even Analysis

Currently, there are many differences in the way State DOTs code and define safety performance measures (*e.g.,* serious injuries). The rule will result in regulations that will: Improve data by providing for greater consistency in the reporting of serious injuries; require reporting on serious injuries and fatalities through a more visible and transparent reporting system; require the establishment and reporting of targets that can be aggregated at the national level; require State DOTs to meet or make significant progress toward meeting their targets, and establish requirements for State DOTs that have not met or made significant progress toward meeting their targets.

Upon implementation, FHWA expects that the final rule will result in certain benefits. Specifically, FHWA expects safety investment decisionmaking to be more informed through the use of consistent and uniform measures; State DOTs and MPOs will be expected to use the information and data generated as a result of the new regulations to better inform their transportation planning and programming decisionmaking and more directly link investments to desired performance outcomes. In particular, FHWA expects that these new performance aspects of the Federal-aid program will help State DOTs and MPOs make better decisions on how to use resources in ways that will result in the greatest possible reduction in fatalities and serious injuries. These regulations will also help provide FHWA the ability to better communicate a national safety performance story. Each of these benefits is discussed in further detail in the RIA, available in the docket.

These benefits resulting from the rule (*i.e.,* more informed decisionmaking, greater accountability, and greater focus on making progress toward the national goal for safety) will lead to improved safety outcomes. However, the benefits from the rule, while real and substantial are difficult to monetize. Therefore, FHWA quantified these benefits of the rule by performing a break-even analysis, as described in OMB Circular A–4, that estimates the number of fatalities and incapacitating injuries [42] the rule will need to prevent for the benefits of the rule to justify the costs.

Table 4 displays the results from a break-even analysis using fatalities and incapacitating injuries as its reduction metric. The results show that the rule must prevent approximately 10 fatalities over 10 years to generate enough benefits to outweigh the cost of the rule. This translates to one fatality per year nationwide.[43] When the break-even analysis uses incapacitating injuries as the reduction metric, it shows that the rule must prevent 199 incapacitating injuries over 10 years, or approximately 20 a year, for benefits to outweigh the cost.[44] In other words, the rule will need to prevent approximately 10 fatalities or approximately 199 incapacitating injuries over 10 years nationwide for the rule to be cost-beneficial. Due to the relatively small break-even number of fatalities and incapacitating injuries, FHWA believes that the rule will surpass this threshold and that the benefits of the rule will outweigh the costs.

TABLE 4—BREAK-EVEN ANALYSIS USING FATALITIES AND INCAPACITATING INJURIES REDUCTION METRIC

Undiscounted 10-year costs	Reduction in fatalities required for rule to be cost-beneficial	Average annual reduction in fatalities required for rule to be cost-beneficial	Reduction in incapacitating injuries required for rule to be cost-beneficial	Average annual reduction in incapacitating injuries required for rule to be cost-beneficial
a	b = a ÷ $9,200,000	c = b ÷ 10 years	d = a ÷ $439,990	d = c ÷ 10 years
$87,483,450	9.5	1.0	198.8	19.9

Both of the thresholds in the break-even analysis increased in the final rule relative to the proposed rule. Specifically, the reduction in fatalities required for the rule to be cost-beneficial increased from 7 in the NPRM to 10 in the final rule, while the reduction in incapacitating injuries required for the rule to be cost-beneficial increased from 153 in the NPRM to 199 in the final rule. In both cases, the break-even points were affected by the increase in the undiscounted 10-year cost (which increased from $66.7 million to $87.5 million). In addition, the break-even points were affected by increases to both the VSL for fatalities and the average cost per incapacitating injury (the VSL for fatalities increased from $9.1 million to $9.2 million, while the average cost per incapacitating injury increased from $435,000 to $440,000).

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), FHWA has evaluated the effects of this final rule on small entities and anticipates that this action would not have a significant economic impact on a substantial number of small entities. The rule affects three types of entities: State governments, MPOs, and local law enforcement agencies. State governments do not meet the definition of a small entity.

The MPOs are considered governmental jurisdictions, so the small entity standard for these entities is whether the affected MPOs serve less than 50,000 people. The MPOs serve urbanized areas with populations of more than 50,000. Therefore, MPOs that incur economic impacts under this rule

[42] The FHWA used crash statistics from NHTSA's *Traffic Safety Facts 2012* to perform the break-even analysis. Because crash types are categorized using a KABCO scale in that report (*i.e.,* fatality, incapacitating injury, non-incapacitating injury, or other injury), the results of the break-even analysis are expressed in terms of incapacitating injury, and not serious injury.

[43] For reference, according to ''NHTSA Traffic Safety Facts 2012,'' there were 33,561 fatalities in 2012.

[44] For reference, according to ''NHTSA Traffic Safety Facts 2012,'' there were 182,000 incapacitating injuries in 2012.

do not meet the definition of a small entity.

Local law enforcement agencies, however, may be subsets of small governmental jurisdictions. Nonetheless, the RIA estimates minimal one-time costs to local law enforcement agencies, as discussed above, and these costs represent a fraction of a percent of revenues of a small government. Therefore, I hereby certify that this regulatory action would not have a significant impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

The FHWA has determined that this final rule would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, March 22, 1995, 109 Stat. 48). This rule does not contain a Federal mandate that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of greater than $151 million or more in any 1 year (2 U.S.C. 1532). Additionally, the definition of ''Federal mandate'' in the Unfunded Mandates Reform Act excludes financial assistance of the type in which State, local, or tribal governments have authority to adjust their participation in the program in accordance with changes made in the program by the Federal Government. The Federal-aid highway program permits this type of flexibility.

Executive Order 13132 (Federalism)

The FHWA has analyzed this final rule in accordance with the principles and criteria contained in Executive Order 13132 dated August 4, 1999. The FHWA has determined that this action would not have sufficient federalism implications to warrant the preparation of a federalism assessment. The FHWA has also determined that this rulemaking would not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions.

Executive Order 12372 (Intergovernmental Review) Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction

The regulations implementing EO 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program. This EO applies because State and local governments would be directly affected by the proposed regulation, which is a condition on Federal highway funding. Local entities should refer to the Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction, for further information.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from OMB prior to conducing or sponsoring a collection of information. Details and burdens in this final rule would be realized in Planning and HSIP reporting. The PRA activities are already covered by existing OMB Clearances. The reference numbers for those clearances are OMB: 2132–0529 (Planning) and 2125–0025 (HSIP), both with expiration date of May 31, 2017. Any increases in PRA burdens caused by MAP–21 in these areas were addressed in PRA approval requests associated with those rulemakings.

National Environmental Policy Act

The FHWA has analyzed this action for the purpose of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), and has determined that this action would not have any effect on the quality of the environment and meets the criteria for the categorical exclusion at 23 CFR 771.117(c)(20).

Executive Order 12630 (Taking of Private Property)

The FHWA has analyzed this rule under EO 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. The FHWA does not anticipate that this action would affect a taking of private property or otherwise have taking implications under EO 12630.

Executive Order 12988 (Civil Justice Reform)

This action meets applicable standards in sections 3(a) and 3(b)(2) of EO 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

The FHWA has analyzed this rule under EO 13045, Protection of Children from Environmental Health Risks and Safety Risks. The FHWA certifies that this action would not cause an environmental risk to health or safety that might disproportionately affect children.

Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this action under EO 13175, dated November 6, 2000, and believes that the action would not have substantial direct effects on one or more Indian tribes; would not impose substantial direct compliance costs on Indian tribal governments; and would not preempt tribal laws. The final rule addresses obligations of Federal funds to States for Federal-aid highway projects and would not impose any direct compliance requirements on Indian tribal governments. Therefore, a tribal summary impact statement is not required.

Executive Order 13211 (Energy Effects)

The FHWA has analyzed this action under EO 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The FHWA has determined that this is not a significant energy action under that order and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required.

Executive Order 12898 (Environmental Justice)

The EO 12898 requires that each Federal agency make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minorities and low-income populations. The FHWA has determined that this rule does not raise any environmental justice issues.

Regulation Identifier Number

A RIN is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 490

Bridges, Highway safety, Highways and roads, Incorporation by reference, Reporting and recordkeeping requirements.

Issued on March 2, 2016 under authority delegated in 49 CFR 1.85.

Gregory G. Nadeau,

Administrator, Federal Highway Administration.

■ In consideration of the foregoing, FHWA amends title 23, Code of Federal Regulations, by adding part 490 to read as follows:

PART 490—NATIONAL PERFORMANCE MANAGEMENT MEASURES

Subpart A—General Information

Sec.

490.101 Definitions.
490.103 [Reserved]
490.105 [Reserved]
490.107 [Reserved]
490.109 [Reserved]
490.111 Incorporation by reference.

Subpart B—National Performance Management Measures for the Highway Safety Improvement Program

490.201 Purpose.
490.203 Applicability.
490.205 Definitions.
490.207 National performance management measures for the Highway Safety Improvement Program.
490.209 Establishment of performance targets.
490.211 Determining whether a State department of transportation has met or made significant progress toward meeting performance targets.
490.213 Reporting of targets for the Highway Safety Improvement Program.

Authority: 23 U.S.C. 134, 135, 148(i) and 150; 49 CFR 1.85.

Subpart A—General Information

§ 490.101 Definitions.

Unless otherwise specified, the following definitions apply to this part:

Highway Performance Monitoring System (HPMS) is a national level highway information system that includes data on the extent, condition, performance, use, and operating characteristics of the Nation's highways.

Measure means an expression based on a metric that is used to establish targets and to assess progress toward meeting the established targets (*e.g.,* a measure for flight on-time performance is percent of flights that arrive on time, and a corresponding metric is an arithmetic difference between scheduled and actual arrival time for each flight).

Metric means a quantifiable indicator of performance or condition.

Non-urbanized area means a single geographic area that comprises all of the areas in the State that are not ''urbanized areas'' under 23 U.S.C. 101(a)(34).

Target means a quantifiable level of performance or condition, expressed as a value for the measure, to be achieved within a time period required by the Federal Highway Administration (FHWA).

§ 490.103 [Reserved]

§ 490.105 [Reserved]

§ 490.107 [Reserved]

§ 490.109 [Reserved]

§ 490.111 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, FHWA must publish a notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the Federal Highway Administration, Office of Highway Policy Information (202–366–4631) and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(b) [Reserved]

(c) [Reserved]

(d) American National Standards Institute, Inc., 1899 L Street NW., 11th Floor, Washington, DC 20036, (202) 293–8020, *www.ansi.org.*

(1) ANSI D16.1–2007, Manual on Classification of Motor Vehicle Traffic Accidents. 7th Edition, approved August 2, 2007 (also available from National Safety Council, 1121 Spring Lake Drive, Itasca, Illinois 60143–3201, (*http://www-nrd.nhtsa.dot.gov/Pubs/07D16.pdf*) IBR approved for § 490.205.

(2) [Reserved]

(e) The U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, *www.dot.gov.*

(1) DOT HS 811 631, Model Minimum Uniform Crash Criteria (MMUCC) Guideline, 4th Edition, July 2012 (also available at *http://mmucc.us/sites/default/files/MMUCC_4th_Ed.pdf)* IBR approved for §§ 490.205 and 490.207(c).

(2) [Reserved]

Subpart B—National Performance Management Measures for the Highway Safety Improvement Program

§ 490.201 Purpose.

The purpose of this subpart is to implement the requirements of 23 U.S.C. 150(c)(4), which requires the Secretary of Transportation to establish performance measures for the purpose of carrying out the Highway Safety Improvement Program (HSIP) and for State departments of transportation (State DOTs) to use in assessing:

(a) Serious injuries and fatalities per vehicle miles traveled (VMT); and

(b) Number of serious injuries and fatalities.

§ 490.203 Applicability.

The performance measures are applicable to all public roads covered by the HSIP carried out under 23 U.S.C. 130 and 148.

§ 490.205 Definitions.

Unless otherwise specified, the following definitions apply in this subpart:

5-year rolling average means the average of 5 individual, consecutive annual points of data (*e.g.,* the 5-year rolling average of the annual fatality rate).

Annual Report File (ARF) means FARS data that are published annually, but prior to Final FARS data.

Fatality Analysis Reporting System (FARS) means a nationwide census providing public yearly data regarding fatal injuries suffered in motor vehicle traffic crashes.

Final FARS means the FARS data that replace the ARF file and contain additional cases or updates to cases that became available after the ARF was released, and which are no longer subject to future changes.

KABCO means the coding convention system for injury classification established by the National Safety Council.

Number of fatalities means the total number of persons suffering fatal injuries in a motor vehicle traffic crash during a calendar year, based on the data reported by the FARS database.

Number of non-motorized fatalities means the total number of fatalities (as defined in this section) with the FARS person attribute codes: (5) Pedestrian, (6) Bicyclist, (7) Other Cyclist, and (8) Person on Personal Conveyance.

Number of non-motorized serious injuries means the total number of serious injuries (as defined in this section) where the injured person is, or is equivalent to, a pedestrian (2.2.36) or a pedalcylcist (2.2.39) as defined in the ANSI D16.1–2007 (incorporated by reference, see § 490.111).

Number of serious injuries means the total number of persons suffering at least one serious injury for each separate motor vehicle traffic crash during a calendar year, as reported by the State, where the crash involves a motor vehicle traveling on a public road, and the injury status is ''suspected serious injury (A)'' as described in MMUCC, (incorporated by reference, see

§ 490.111). For serious injury classifications that are not MMUCC compliant, the number of serious injuries means serious injuries that are converted to KABCO by use of conversion tables developed by the NHTSA.

Public road is as defined in 23 CFR 924.3.

Rate of fatalities means the ratio of the total number of fatalities (as defined in this section) to the number of vehicle miles traveled (VMT) (expressed in 100 million VMT) in a calendar year.

Rate of serious injuries means the ratio of the total number of serious injuries (as defined in this section) to the number of VMT (expressed in 100 million vehicle miles of travel) in a calendar year.

Serious injuries means:

(1) From April 14, 2016 to April 15, 2019, injuries classified as ''A'' on the KABCO scale through use of the conversion tables developed by NHTSA; and

(2) After April 15, 2019, ''suspected serious injury (A)'' as defined in the MMUCC.

§ 490.207 National performance management measures for the Highway Safety Improvement Program.

(a) There are five performance measures for the purpose of carrying out the HSIP. They are:

(1) Number of fatalities;

(2) Rate of fatalities;

(3) Number of serious injuries;

(4) Rate of serious injuries; and,

(5) Number of non-motorized fatalities and non-motorized serious injuries.

(b) Each performance measure is based on a 5-year rolling average. The performance measures are calculated as follows:

(1) The performance measure for the number of fatalities is the 5-year rolling average of the total number of fatalities for each State and shall be calculated by adding the number of fatalities for each of the most recent 5 consecutive years ending in the year for which the targets are established, dividing by 5, and rounding to the tenth decimal place. FARS ARF may be used if Final FARS is not available.

(2) The performance measure for the rate of fatalities is the 5-year rolling average of the State's fatality rate per VMT and shall be calculated by first calculating the number of fatalities per 100 million VMT for each of the most recent 5 consecutive years ending in the year for which the targets are established, adding the results, dividing by 5, and rounding to the thousandth decimal place. The FARS ARF may be used if Final FARS is not available. State VMT data are derived from the HPMS. The Metropolitan Planning Organizations (MPO) VMT is estimated by the MPO. The sum of the fatality rates is divided by five and then rounded to the thousandth decimal place.

(3) The performance measure for the number of serious injuries is the 5-year rolling average of the total number of serious injuries for each State and shall be calculated by adding the number of serious injuries for each of the most recent 5 consecutive years ending in the year for which the targets are established, dividing by five, and rounding to the tenth decimal place.

(4) The performance measure for the rate of serious injuries is the 5-year rolling average of the State's serious injuries rate per VMT and shall be calculated by first calculating the number of serious injuries per 100 million VMT for each of the most recent 5 consecutive years ending in the year for which the targets are established, adding the results, dividing by five, and rounding to the thousandth decimal place. State VMT data are derived from the HPMS. The MPO VMT is estimated by the MPO.

(5) The performance measure for the number of Non-motorized Fatalities and Non-motorized Serious Injuries is the 5-year rolling average of the total number of non-motorized fatalities and non-motorized serious injuries for each State and shall be calculated by adding the number of non-motorized fatalities to the number non-motorized serious injuries for each of the most recent 5 consecutive years ending in the year for which the targets are established, dividing by five, and rounding to the tenth decimal place. FARS ARF may be used if Final FARS is not available.

(c) For purposes of calculating serious injuries in paragraphs (b)(3), (4), and (5) of this section:

(1) Before April 15, 2019, serious injuries may be determined by either of the following:

(i) Serious injuries coded (A) in the KABCO injury classification scale through use of the NHTSA serious injuries conversion tables; or

(ii) Using MMUCC (incorporated by reference, see § 490.111).

(2) By April 15, 2019, serious injuries shall be determined using MMUCC.

§ 490.209 Establishment of performance targets.

(a) State DOTs shall establish targets annually for each performance measure identified in § 490.207(a) in a manner that is consistent with the following:

(1) State DOT targets shall be identical to the targets established by the State Highway Safety Office for common performance measures reported in the State's Highway Safety Plan, subject to the requirements of 23 U.S.C. 402(k)(4), and as coordinated through the State Strategic Highway Safety Plan.

(2) State DOT targets shall represent performance outcomes anticipated for the calendar year following the HSIP annual report date, as provided in 23 CFR 924.15.

(3) State DOT performance targets shall represent the anticipated performance outcome for all public roadways within the State regardless of ownership or functional class.

(4) State DOT targets shall be reported in the HSIP annual report that is due after April 14, 2017, and in each subsequent HSIP annual report thereafter.

(5) The State DOT shall include, in the HSIP Report (see 23 CFR part 924), at a minimum, the most recent 5 years of serious injury data and non-motorized serious injury data. The serious injury data shall be either MMUCC compliant or converted to the KABCO system (A) for injury classification through use of the NHTSA conversion tables as required by § 490.207(c).

(6) Unless approved by FHWA and subject to § 490.209(a)(1), a State DOT shall not change one or more of its targets for a given year once it is submitted in the HSIP annual report.

(b) In addition to targets described in paragraph (a) of this section, State DOTs may, as appropriate, for each target in paragraph (a) establish additional targets for portions of the State.

(1) A State DOT shall declare and describe in the State HSIP annual report required by § 490.213 the boundaries used to establish each additional target.

(2) State DOTs may select any number and combination of urbanized area boundaries and may also select a single non-urbanized area boundary for the establishment of additional targets.

(3) The boundaries used by the State DOT for additional targets shall be contained within the geographic boundary of the State.

(4) State DOTs shall evaluate separately the progress of each additional target and report that progress in the State HSIP annual report (see 23 CFR part 924).

(c) The Metropolitan Planning Organizations (MPO) shall establish performance targets for each of the measures identified in § 490.207(a), where applicable, in a manner that is consistent with the following:

(1) The MPOs shall establish targets not later than 180 days after the respective State DOT establishes and

reports targets in the State HSIP annual report.

(2) The MPO target shall represent performance outcomes anticipated for the same calendar year as the State target.

(3) After the MPOs within each State establish the targets, the State DOT must be able to provide those targets to FHWA, upon request.

(4) For each performance measure, the MPOs shall establish a target by either:

(i) Agreeing to plan and program projects so that they contribute toward the accomplishment of the State DOT safety target for that performance measure; or

(ii) Committing to a quantifiable target for that performance measure for their metropolitan planning area.

(5) The MPOs that establish quantifiable fatality rate or serious injury rate targets shall report the VMT estimate used for such targets and the methodology used to develop the estimate. The methodology should be consistent with other Federal reporting requirements, if applicable.

(6) The MPO targets established under paragraph (c)(4) of this section specific to the metropolitan planning area shall represent the anticipated performance outcome for all public roadways within the metropolitan planning boundary regardless of ownership or functional class.

(d)(1) The State DOT and relevant MPOs shall coordinate on the establishment of targets in accordance with 23 CFR part 450 to ensure consistency, to the maximum extent practicable.

(2) The MPOs with multi-State boundaries that agree to plan and program projects to contribute toward State targets in accordance with paragraph (c)(4)(i) of this section shall plan and program safety projects in support of the State DOT targets for each area within each State (*e.g.,* MPOs that extend into two States shall agree to plan and program projects to contribute toward two separate sets of targets (one set for each State)).

§ 490.211 Determining whether a State department of transportation has met or made significant progress toward meeting performance targets.

(a) The determination for having met or made significant progress toward meeting the performance targets under 23 U.S.C. 148(i) will be determined based on:

(1) The most recent available Final FARS data for the fatality number. The FARS ARF may be used if Final FARS is not available;

(2) The most recent available Final FARS and HPMS data for the fatality rate. The FARS ARF may be used if Final FARS is not available;

(3) The most recent available Final FARS data for the non-motorized fatality number. The FARS ARF may be used if Final FARS is not available;

(4) State reported data for the serious injuries number;

(5) State reported data and HPMS data for the serious injuries rate; and

(6) State reported data for the non-motorized serious injuries number.

(b) The State-reported serious injury data and non-motorized serious injury data will be taken from the HSIP report in accordance with 23 CFR part 924.

(c) The FHWA will evaluate whether a State DOT has met or made significant progress toward meeting performance targets.

(1) The FHWA will not evaluate any additional targets a State DOT may establish under § 490.209(b).

(2) A State DOT is determined to have met or made significant progress toward meeting its targets when at least four of the performance targets established under § 490.207(a) are:

(i) Met; or

(ii) The outcome for a performance measure is less than the 5-year rolling average data for the performance measure for the year prior to the establishment of the State's target. For example, of the State DOT's five performance targets, the State DOT is determined to have met or made significant progress toward meeting its targets if it met two targets and the outcome is less than the measure for the year prior to the establishment of the target for two other targets.

(d) If a State DOT has not met or made significant progress toward meeting performance targets in accordance with paragraph (c) of this section, the State DOT must comply with 23 U.S.C. 148(i) for the subsequent fiscal year.

(e) The FHWA will first evaluate whether a State DOT has met or made significant progress toward meeting performance targets after the calendar year following the year for which the first targets are established, and then annually thereafter.

§ 490.213 Reporting of targets for the Highway Safety Improvement Program.

(a) The targets established by the State DOT shall be reported to FHWA in the State's HSIP annual report in accordance with 23 CFR part 924.

(b) The MPOs shall annually report their established safety targets to their respective State DOT, in a manner that is documented and mutually agreed upon by both parties.

(c) The MPOs shall report baseline safety performance, VMT estimate and methodology if a quantifiable rate target was established, and progress toward the achievement of their targets in the system performance report in the metropolitan transportation plan in accordance with 23 CFR part 450. Safety performance and progress shall be reported based on the following data sources:

(1) The most recent available Final FARS data for the fatality number. The FARS ARF may be used if Final FARS is not available;

(2) The most recent available Final FARS and MPO VMT estimate for the fatality rate. The FARS ARF may be used if Final FARS is not available;

(3) The most recent available Final FARS data for the non-motorized fatality number. The FARS ARF may be used if Final FARS is not available;

(4) State reported data for the serious injuries number;

(5) State reported data and MPO VMT estimate for the serious injuries rate; and

(6) State reported data for the non-motorized serious injuries number.

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Part III

Department of Transportation

Federal Railroad Administration

49 CFR Part 218
Train Crew Staffing; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 218

[Docket No. FRA–2014–0033, Notice No. 1]

RIN 2130–AC48

Train Crew Staffing

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: FRA proposes regulations establishing minimum requirements for the size of train crew staffs depending on the type of operation. A minimum requirement of two crewmembers is proposed for all railroad operations, with exceptions proposed for those operations that FRA believes do not pose significant safety risks to railroad employees, the general public, and the environment by using fewer than two-person crews. This proposed rule would also establish minimum requirements for the roles and responsibilities of the second train crewmember on a moving train, and promote safe and effective teamwork. Additionally, FRA co-proposes two different options for situations where a railroad wants to continue an existing operation with a one-person train crew or start up an operation with less than two crewmembers. Under both co-proposal options, a railroad that wants to continue an existing operation or start a new operation with less than a two-person train crew would be required to describe the operation and provide safety-related information to FRA; however, proposed Option 1 includes an FRA review and approval period lasting up to 90 days while Option 2 proposes permitting such operations to initiate or continue without a mandatory FRA review and approval waiting period or while such review is taking place. For start-up freight operations with less than two crewmembers, proposed Option 2 also requires a statement signed by the railroad officer in charge of the operation certifying a safety hazard analysis of the operation has been completed and that the operation provides an appropriate level of safety.

DATES: (1) Written Comments: Written comments on the proposed rule must be received by May 16, 2016. Comments received after that date will be considered to the extent possible without incurring additional expense or delay.

(2) FRA anticipates being able to resolve this rulemaking without a public, oral hearing. However, if FRA receives a specific request for a public, oral hearing prior to April 14, 2016, one will be scheduled and FRA will publish a supplemental notice in the **Federal Register** to inform interested parties of the date, time, and location of any such hearing.

ADDRESSES: You may submit comments identified by the docket number FRA–2014–0033 by any of the following methods:

- *Online:* Comments should be filed at the Federal eRulemaking Portal, *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* Room W12–140 on the Ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC 20590 between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Instructions: All submissions must include the agency name, docket name and docket number or Regulatory Identification Number (RIN) for this rulemaking (RIN 2130–AC48). 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 in the **SUPPLEMENTARY INFORMATION** section of this document for Privacy Act information related to any submitted petitions or materials.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* at any time or 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Joseph D. Riley, Railroad Safety Specialist (OP)-Operating Crew Certification, U.S. Department of Transportation, Federal Railroad Administration, Mail Stop-25, Room W33–412, 1200 New Jersey Avenue SE., Washington, DC 20590, (202) 493–6318, or Alan H. Nagler, Senior Trial Attorney, U.S. Department of Transportation, Federal Railroad Administration, Office of Chief Counsel, RCC–10, Mail Stop 10, West Building 3rd Floor, Room W31–309, 1200 New Jersey Avenue SE., Washington, DC 20590, (202) 493–6038).

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I. Executive Summary

Purpose of the Regulatory Action and Legal Authority

FRA is concerned that as railroads implement positive train control (PTC) and other technologies, they may expand use of less than two-person crews on operations without considering safety risks or implementing risk mitigating actions that FRA believes are necessary. Because there are currently few railroad operations that utilize a one-person crew and FRA has not been specifically tracking the safety of those operations through its recordkeeping and reporting requirements, FRA cannot provide reliable or conclusive statistical data to suggest whether one-person crew operations are generally safer or less safe than multiple-person crew operations. FRA does not currently collect sufficient data related to the size of a train crew nor do accident reports and investigations generally address the size of a crew in order for FRA or any entity to definitively compare one-person operations to multiple person operations. However, FRA has studies showing the benefits of a second crewmember and other information detailing the potential safety benefits of multiple-person crews. A recent catastrophic accident in Canada occurred in which a one-person crew did not properly secure an unattended train and another accident occurred in which a multiple-person crew was able to effectively respond to an accident and remove cars from danger. In addition, qualitative studies show that one-person train operations pose increased risks by potentially overloading the sole crewmember with tasks, and that PTC does not substitute for all the tasks performed by properly trained conductors. Task overload can lead to a loss of situational awareness, and potentially to accidents. Moreover, other nations require government approval of railroad decisions to use less than two-person crews. Further, even if FRA does not have data to prove a direct correlation between higher rates of safety and multiple person crews, it is true that railroads have achieved a continually improving safety record during a period in which the industry largely employed two-person train crews.

Persons in the railroad industry have pointed to countervailing effects of a requirement to have more than one crewmember on a train, such as additional incidents caused by crew distraction. In addition, having a second crew person on board a train may not prevent or mitigate an incident but could add to the number of persons killed or seriously injured when one occurs. FRA believes such instances are very rare, but does not have readily available information for estimating such potential countervailing impacts of this proposed rule. FRA believes that having a properly trained second crew person on board, or implementing risk mitigating actions that FRA believes are necessary to address any additional safety risks from using fewer than two-person crews, provides net safety benefits relative to using fewer than two-person crews or not implementing mitigating measures that FRA believes are necessary.

In discussing the future of train operations with officials from various railroads, FRA has become aware that some railroads have shown a willingness to conduct more operations with only one crewmember. FRA has existing authority to take emergency action to prohibit an unsafe operation if the agency is aware of it (49 U.S.C. 20104), but FRA often lacks information to use this authority to address unsafe one-person crews. FRA does not currently have a mechanism to collect detailed information about railroad one-person train operations to determine railroad safety risk. Furthermore, FRA believes it would be inappropriate to wait until an emergency situation arises before it takes action against a one-person operation that is not providing an appropriate level of safety. FRA believes this proposed rule is necessary for FRA to protect railroad employees, the general public, and the environment by considering the safety risks of each type of operation and prohibiting operations that pose an unacceptable level of risk as compared to operations utilizing a two-person crew. This rulemaking is also necessary to ensure that the public, through FRA, has a voice in the railroad's decision to utilize less than a two-person crew.

FRA research demonstrates the effectiveness of properly trained teams. It is not the act of adding a second person that makes the train safer, but instead it is the act of adding a properly qualified person, who understands the roles of all the crewmembers, and who has the experience or ability to relieve the locomotive engineer of some of the mental strain that can contribute to accidents attributed to human factor errors. FRA understands that expert teamwork can be achieved through effective coordination, cooperation, and communication. However, FRA estimates both options of the proposal would have a small impact on teamwork because FRA expects that either co-proposal option would result in no more than the labor hour equivalent of two to three additional crewmembers nationwide annually relative to what would occur with existing operations with less than two crewmembers if the rule were not in place and because FRA believes that all railroads with multiple-person crews are operating in compliance with the proposal's requirements for the roles and responsibilities of a second crewmember. FRA expects that under the first co-proposal it would require some start-up one-person crew operations (but not existing one-person crew operations) to implement risk mitigating measures that FRA believes are necessary to address safety risks of using one-person crews in specific operating environments. However, FRA expects to require such measures in very few circumstances, and estimates a cost range of $5.1 million to $27.7 million over 10 years and discounted at 7 percent from implementing such measures under either co-proposal option.

The proposed rulemaking would be expected to grant an exception to most existing operations with less than two crewmembers. However, some operations would still not be able to meet the requirements of the proposed exceptions and those railroads would have to add one person to their train crews. FRA estimates that about 10,361 train starts would not be eligible for the proposed specific freight train exception § 218.131. Furthermore, FRA estimated that around 15,185 train starts would not be covered by the exception for existing one-person operations in § 218.133. Given the proposed structure of the passenger train exceptions in § 218.129, FRA does not expect any passenger railroad to have to add a crewmember to an existing train operation as a result of the NPRM. Freight railroads would be expected to take full advantage of the special approval procedure in § 218.135. FRA used a range of values to estimate the costs that would be related to § 218.135 due to the uncertainty in the future of crew staffing. This range stipulates that

between 850,266 and 15,675,000 train starts would be affected by crew reduction over the next 10 years and enter the special approval procedure as proposed in § 218.135. For passenger railroads, the proposed special approval procedure would maintain the status quo, as any railroad that could potentially request special approval under § 218.135 would have done it through a passenger train emergency preparedness plan under part 239.

FRA is proposing regulations concerning train crew staffing based on the statutory general authority of the Secretary of Transportation (Secretary). The general authority states, in relevant part, that the Secretary ''as necessary, shall prescribe regulations and issue orders for every area of railroad safety supplementing laws and regulations in effect on October 16, 1970.'' 49 U.S.C. 20103. The Secretary delegated this authority to the Federal Railroad Administrator. 49 CFR 1.89(a).

Summary of the Major Provisions of the Regulatory Action in Question

FRA is co-proposing regulations to address train crew sizes. FRA's first co-proposal would establish minimum requirements for the size of different train crew staffs depending on the type of operation and the safety risks posed by the operation to railroad employees and the general public. This proposal also prescribes minimum requirements for the appropriate roles and responsibilities of train crewmembers on a moving train, and promotes safe and effective teamwork. Each railroad may prescribe additional or more stringent requirements in its operating rules, timetables, timetable special instructions, and other instructions.

FRA's first proposed approach starts with a general requirement that each train shall be assigned a minimum of two crewmembers, regardless of whether the train is a freight or passenger operation. The NPRM contains several proposed requirements detailing the roles and responsibilities of the second crewmember when the train is moving. The primary role of a second crewmember, typically a conductor, is to have the ability to directly communicate with the crewmember in the cab of the controlling locomotive, *i.e.,* the locomotive engineer, even if the second crewmember is located outside of the operating cab.

Several of the proposed sections contain exceptions to this general requirement, specifying when a train would not require a minimum of two crewmembers. These are generally low risk operations that are not hauling large quantities of hazardous materials, traveling at high speeds, or putting passengers on passenger trains at risk. Among other exceptions, there is a proposed exception for a tourist, scenic, historic, or excursion operation that is not part of the general railroad system of transportation. Other exceptions allow railroads to use one-person crews to assist other trains (*i.e.,* helper service), maintain track, or move locomotives where they are needed without being burdened by the proposed two crewmember minimum staffing requirement.

Two of the proposed sections suggest how a railroad could apply for FRA approval to operate one-person train crews. One of those proposed sections would require a railroad to provide information describing an operation that existed prior to January 1, 2015, and FRA would have 90 days from the day of receipt of the submission to issue written notification of approval or disapproval. The railroad would be allowed to continue the operation unless FRA notifies the railroad it must cease the operation and provides the reason(s) for the decision. If FRA failed to disapprove the proposal within 90 days of the submission, the railroad would be permitted to go forward with its plan. The second of the proposed sections under the first co-proposal would allow any railroad, at any time, to provide information describing an operation and petition FRA for special approval of a train operation with less than two crewmembers. FRA would normally grant or deny the petition within 90 days of receipt, but could attach special conditions to the approval of any petition after considering the benefits and costs of the condition(s).

Under the second co-proposal, an existing one-person train operation would be required to provide information to FRA in order to continue the operation, and a start-up train operation with less than two crewmembers would be required to provide information to FRA before initiating the operation. The railroad with the start-up operation would also be required to attest that it has studied the operating environment and circumstances of the intended operation and that the railroad believes that it has taken any precautions necessary to ensure that the proposed single-person operation will not pose significant safety risks to railroad employees, the general public, and the environment. Under this co-proposal, the railroad would not be required to wait for FRA approval prior to beginning single-person service. With the railroad's notice and attestation the railroad would be permitted to operate a single-person service. Both existing and start-up train operations with less than two crewmembers would be required to provide an appropriate level of safety. However, FRA reserves the right to investigate an operation and halt or add conditions to an operation's continuance if FRA determines that an operation is not providing an appropriate level of safety.

Costs and Benefits

FRA estimated the benefit and cost ranges of the two co-proposals using a 10-year time horizon, and performed sensitivity analysis using a 20-year time horizon. Compliance costs include the addition of the labor hour equivalent of about one to three additional crewmembers nationwide annually to certain train movements for existing operations (an estimated cost of roughly $120,000–$200,000 annually over 10 years, undiscounted), off-setting actions required by FRA in order for a railroad to obtain FRA approval to start up new fewer than two-person crew operations, and information submission and data analysis.

FRA estimated a 10-year cost range which would be between $7.65 million and $40.86 million, undiscounted. Discounted values of this range are $5.19 million and $27.72 million at the 7-percent level. FRA is confident that the benefits outlined in this NPRM would exceed the costs. Preventing a single fatal injury would exceed the break-even point in the low range and preventing five fatalities would exceed the break-even point at the high range. The proposed rule will help ensure that train crew staffing does not result in inappropriate levels of safety risks to railroad employees, the general public, and the environment, while allowing technology innovations to advance industry efficiency and effectiveness without compromising safety. The proposal contains minimum requirements for roles and responsibilities of second train crewmembers on certain operations and promotes safe and effective teamwork. Due to lack of information, these cost estimates do not include any safety costs from using two-person crews instead of one or zero person crews, such as additional accidents caused by non-engineer crew distracting the engineer or additional deaths and serious injuries from having more people on board trains involved in accidents.

FRA is confident that the proposed rulemaking would generate the benefits necessary to at least break-even. These benefits would result from improved

post-accident/incident emergency response and management, reporting of troubled employees due to drug and alcohol use, compliance with restrictions on electronic device use in place to prevent distraction, and the potential avoidance of a high-consequence train accident. While FRA does not have information that suggests that there have been any previous accidents involving one-person crew operations that could have been avoided by adding a second crewmember, this rule would break even with its estimated costs if it prevents one fatal injury or high-consequence accident in the first 10 years of the rule (and no additional safety costs result from the presence of additional crew). This proposed rule would help ensure that passengers and high risk commodities are transported safely by rail and FRA is confident that the resulting safety benefits would justify the costs. The cost increase would result from additional crewmembers on the trains that are currently operating with a one-person crew and from the possibility that the railroad is required to use more technology to mitigate the risk related to crew conversions. FRA has assessed both co-proposals and concluded that monetary, quantifiable costs under both co-proposals are equal. However, railroads may perceive each option differently, especially as it pertains to business risk. Under co-proposal Option 1, railroads would have to wait for approval and that would delay implementation of crew size reduction in the short-term. However, once FRA grants approval railroads would have spent adequate amount of resources to meet regulatory requirements and oversight. Under co-proposal Option 2, each railroad would be able to initiate crew reductions after a petition is submitted to FRA. This means that railroads would be able to reduce costs once petitions are submitted. However, under co-proposal Option 2, railroads may assume more business risk as an initiated crew reduction would be subject to regulatory action (discontinuance or more conditions for approval). This means that railroads could end up acquiring equipment or resources for unapproved crew reductions or to modify initial plans for crew reductions. This would be costly and bring more uncertainty to the railroads' business plans in the short-term.

FRA conducted a sensitivity analysis of its first co-proposal using a 20-year time horizon and a scenario with a more rapid crew size reduction schedule. FRA estimates that the cost range of the co-proposals would be $7.44 million to $36.25 million over this timeframe using a 7-percent discount rate, and $11.93 million to $50.71 million using a 3-percent discount rate.

II. Background

A. Analysis of Two Recent Catastrophic Accidents Raising Crew Size Issues

During the last five months of 2013, the railroad industry had two accidents that suggest the need for greater Federal oversight of crew size issues. The first incident at Lac-Mégantic, Quebec, Canada, was the driving force for bringing the crew size issue to FRA's Federal advisory committee known as the Railroad Safety Advisory Committee (RSAC). While Canada's Transportation Safety Board could not conclude that use of a one-person crew was a cause or contributing factor to the accident, as described below, the Lac-Mégantic accident involved a one-person crew that did not properly secure a train at the end of a tour of duty leading to a deadly, catastrophic accident.

The RSAC includes representatives from all of the agency's major stakeholder groups, including railroads, labor organizations, suppliers and manufacturers, and other interested parties. (An RSAC overview is provided below.) During the time that the RSAC's Working Group was deliberating whether it could make recommendations to FRA on the crew size issue, the other accident summarized here occurred. This accident involved trains carrying multi-person crews and is illustrative of the positive mitigation measures multiperson train crews took following a track-based derailment of one train that led to a second train colliding with the first (Casselton, ND). With regard to the Lac-Mégantic accident, FRA exercised its oversight following the accident through use of its emergency order authority to ensure that the railroad involved had at least one adequate backstop to human error. FRA has also issued several other regulations to address the safety issues raised by these accidents which are described within the summaries of the accidents.

Lac-Mégantic, Quebec, Canada

FRA published Emergency Order 28 (78 FR 48218) on August 7, 2013, (issued on August 2, 2013) which contains the preliminarily known details of the events on July 5–6, 2013, that led to the catastrophic accident at Lac-Mégantic. On August 20, 2014, the Transportation Safety Board (TSB) of Canada released its railway investigation report, which refines the known factual findings and makes recommendations for preventing similar accidents. TSB of Canada Railway Investigation R13D0054 is available online at *http://bit.ly/VLqVBk.* In summary, an unattended train on mainline track did not stay secured and rolled down a grade to the center of town, where 63 of the 72 crude oil tank cars in the train derailed, and about one-third of the derailed tank car shells had large breaches. There were multiple explosions and fires causing an estimated 47 fatalities to the general public, extensive damage to the town, and approximately 2,000 people to be evacuated from the surrounding area.

The train had been secured by its one-person crew prior to it being left unattended. Because of a mechanical problem with the train, the engineer left the train running. Prior to leaving the train, the engineer consulted with another railroad employee about how to handle the problem and applied brakes on the train. However, TSB of Canada determined that the one-person crew did not comply with the railroad's rules requiring the hand brakes alone to be capable of holding the train. According to the railroad's rules, a 72-car train should have had a minimum of nine hand brakes applied. Instead, the one-person crew used a combination of the locomotive air brakes and seven hand brakes to give the false impression during the verification test that the hand brakes alone would hold the train. TSB of Canada concluded that, without the extra force provided by the air brakes, a minimum of 17 and possibly as many as 26 hand brakes would have been needed to secure the train, depending on the amount of force with which they had been applied. Testing conducted by TSB of Canada concluded that it would have been possible for a single operator to apply a sufficient number of hand brakes within a reasonable amount of time. Shortly after the one-person crew left the train, the local fire department responded to an emergency call about a fire on the train. The responders followed the railroad's instructions in shutting down the locomotive and then extinguished the fire. The responders met with an employee of the railroad, a track foreman, to discuss the train's condition prior to departing the area. The track foreman dispatched by the railroad did not have a locomotive operations background. With all the locomotives shut down, the air compressor no longer supplied air to the air brake system, the air leaked, and the air brakes gradually become less effective until the combination of

locomotive air brakes and hand brakes could no longer hold the train.

In the aftermath of the Montreal, Maine and Atlantic Railway (MMA) derailment at Lac-Mégantic, Transport Canada issued an order for all Canadian railroad companies to provide for minimum operating crew requirements considering technology, length of train, speeds, classification of dangerous goods being transported, and other risk factors. In response, MMA changed its operating procedures to use two-person crews on trains in Canada. However, FRA was concerned that MMA did not automatically make corresponding changes to its operating procedures in the U.S. even though the risk associated with this catastrophic accident also exists in the U.S.[1] It may have been that, without a specific two-person train crew requirement in the U.S., MMA did not feel compelled to take any action to enhance the safety of its U.S. operations in a like-minded way to the preventive measures it took in Canada.

The Lac-Mégantic accident is also relevant to the issue of crew size because the tank cars that derailed were carrying crude oil from the Bakken deposit in North Dakota and Montana and this proposed rule carries forward FRA's position that at least a two-person train crew is warranted on any train carrying 20 or more tank cars loaded with crude oil or ethanol. Over the past few years, a technological advancement has allowed crude oil to be recovered from under nonpermeable shale rock. This advancement of hydraulic fracturing, better known as ''fracking,'' resulted in a substantial increase in crude oil shipments in both Canada and the U.S. between 2009 and 2015.[2] The prevalence of crude oil tank cars on U.S. railroads, and the volatility of some of the blended crude oil from different sources or mixed with the chemicals used in the fracking process, suggested that Bakken crude oil might have a significantly greater potential to be improperly classified and packaged for transportation. Investigators initially considered that improper classification and packaging was likely a contributing cause to the catastrophic result at Lac-Mégantic. Consequently, DOT has taken or is taking a variety of actions to address the issues created by transporting crude oil produced through fracking from various approaches. *See,* the following examples

- FRA's Emergency Order 28, 78 FR 48218, Aug. 7, 2013.
- FRA's Safety Advisory 2013–06, 78 FR 48224, Aug. 7, 2013, jointly issued with the Pipeline and Hazardous Materials Safety Administration (PHMSA) (discussing the circumstances surrounding the Lac-Mégantic accident and making certain safety-related recommendations to railroads and crude oil offerors).
- FRA's Safety Advisory 2013–07, 78 FR 69745, Nov. 20, 2013, jointly issued with PHMSA (reinforcing the importance of proper characterization, classification, and selection of a packing group for Class 3 materials and the corresponding requirements in the Federal hazardous materials regulations for safety and security planning after the Lac-Mégantic accident).
- FRA's Safety Advisory 2014–01, jointly issued with PHMSA, 79 FR 27370, May 13, 2014, (encouraging the use of railroad tank car designs with the highest level of integrity reasonably available).
- PHMSA's final rule, issued in coordination with FRA, ''Hazardous Materials: Enhanced Tank Car Standards and Operational Controls for High Hazard Flammable Trains,'' 80 FR 26643, May 8, 2015, (adopting new operational requirements for certain trains transporting large quantities of flammable liquids known as ''high-hazard flammable trains'' (HHFT), creating improvements in tank car standards, providing a sampling and classification program for unrefined petroleum-based products; and creating notification requirements).
- FRA's final rule ''Securement of Unattended Equipment,'' 80 FR 47349, Aug. 6, 2015, (adopting requirements to prevent unattended trains that carry crude oil, ethanol, poisonous by inhalation (PIH), toxic by inhalation (TIH), and other highly flammable contents from rolling away).

Also, in 2013, DOT launched Operation Safe Delivery (OSD), which is examining the entire system of crude oil delivery. OSD concluded, after months of unannounced inspections, testing, and analysis, that ''the current classification applied to Bakken crude is accurate under the current classification system, but that the crude has a higher gas content, higher vapor pressure, lower flash point and boiling point and thus a higher degree of volatility than most other crudes in the U.S., which correlates to increased ignitability and flammability.'' *See* OSD Update (July 23, 2014) summarizing PHMSA and FRA testing results of Bakken crude oil as of May 2014; available online at *http://1.usa.gov/1piQJB1.*

Some people in the railroad industry view the accident at Lac-Mégantic as having nothing to do with crew size. They argue that there are potential safety benefits to single-person train operations, such as increased attentiveness by the lone operator because of the absence of a second crewmember on whom to rely. It is also said that there are fewer distractions from extraneous conversations. The TSB of Canada report on the Lac-Mégantic accident found that it could not be concluded that a one-person crew contributed to the accident. However, TSB of Canada found that the risk of implementing single-person train operations is a risk that must be addressed because it is related to unsafe acts, unsafe conditions, or safety issues with the potential to degrade rail safety. TSB of Canada concluded that addressing the risk of one-person operations is essential to preventing future similar accidents, even if the risk itself cannot be determined to directly have led to this accident.

Related to the risks associated with one-person operations, TSB of Canada found that MMA did not have a strong safety culture, which made MMA a poor candidate to implement one-person operations. For instance, TSB of Canada notes that an organization with a strong safety culture is generally proactive when it comes to addressing safety issues, and yet MMA was generally reactive. MMA had significant gaps between the company's operating instructions and how work was performed day-to-day. Furthermore, TSB of Canada's investigation found MMA had inadequate training, testing, and supervision. In contrast, an effective safety culture is characterized by an informed workforce where people understand the hazards and risks involved in their own operation and work continuously to identify and overcome threats to safety.

At the time of the accident, there were no rules or regulations preventing Canadian railroads from implementing one-person train operations. Thus, TSB of Canada concluded that the risks posed by one-person operations suggest that Transport Canada, *i.e.,* Canada's DOT, should consider whether each railroad has the measures in place to mitigate those risks by creating a process to approve and monitor each railroad's one-person operation plans. TSB of Canada reasoned that if one-person operations are implemented ''without identifying all risks, and if mitigation measures are not implemented, an equivalent level of safety to that of multi-person crews will not be maintained.'' Considering that

[1] Letter from Joseph C. Szabo, FRA Administrator, to Mr. Edward Burkhardt, CEO of MMA (Aug. 21, 2013), placed in the docket.

[2] *https://www.eia.gov/dnav/pet/PET_MOVE_RAILNA_A_EPC0_RAIL_MBBL_M.htm.*

there are only two Canadian railroads that have operated using one-person operations, TSB of Canada seems to be making a prudent recommendation before one-person operations are more widely used throughout the Canadian rail system. This is the exact lesson learned that FRA would like to apply to U.S. rail operations through promulgation of this rulemaking.

Even though TSB of Canada was not able to conclude that having another crewmember would have prevented the accident, and certainly FRA agrees that this could not be determined with any absolute certainty, it is distinctly possible that a train crew with a minimum of two-persons would have had more options available to secure the train safely, thereby potentially posing less of a risk of a runaway train. This was an issue raised by some labor members of FRA's Federal advisory committee and has some support in TSB of Canada's report. For instance, a one-person crew was limited to where the train could be parked so that it would not block a grade crossing, where it is significantly more feasible operationally for a two-person crew to choose to split the train and park each part on a lesser grade than the choice left for the one-person crew. There are four main reasons why splitting a train is generally considered a two-person job: (1) If a one-person crew leaves the locomotive cab unoccupied and has not taken appropriate measures to secure the train, it could become a runaway; (2) even if the train is secure, some cars may move depending on the terrain, making it difficult for the one-person crew to go between cars at a desired location without applying hand brakes, which can be time-consuming and strenuous work; (3) depending on the length of the train, it could be time-consuming for the one crewmember to walk the train to get to the desired location for a cut and find that the car needs to move to release the coupler lock; and (4) when the one-person crew stops occupying the lead locomotive cab, the train and crew are more vulnerable to vandalism and malicious acts by trespassers who might actually want to operate the train. In addition, a second person might be needed to flag a grade crossing and it would be easier to reposition one or more cars with a second crewmember. Another issue that favors two-person crews is that a TSB of Canada survey determined that there were instances when MMA one-person crews applied less than the minimum number of hand brakes required by MMA's rules and that the minimum hand brake requirement was more consistently met when trains were operated by two crewmembers. This seems to be the case here, as the engineer only set seven hand brakes instead of the minimum of nine. Although TSB of Canada's investigation found that even nine hand brakes would not have been enough to hold the train, a second crewmember could have ensured proper securement if the railroad had issued proper instructions regarding the minimum number of hand brakes to apply. Even TSB of Canada's report summarizing its investigations of other shortline runaway train accidents that it investigated previously suggests that, without having another crewmember available, no other person had the opportunity to verify whether the train was properly secured. Additionally, although it is not unusual for some types of locomotives to smoke and that the engineer did contact the railroad and was told to leave the engine while it was smoking, TSB of Canada found that the taxi driver that questioned the decision to leave the locomotive in a smoking condition did not carry the same weight as a qualified railroad employee. Similarly, the one-person crew and the dispatcher did not discuss the MMA procedure requiring that a locomotive be shut down due to abnormal smoke, and TSB of Canada states that it is impossible to conclude whether the presence of another crewmember would have resulted in different actions to secure the train—although FRA believes it is impossible to exclude either.

Thus, in consideration of the safety concerns involved in the rail transportation of crude oil, the catastrophic accident at Lac-Mégantic serves as the trigger to create redundant safeguards that have a high potential of preventing other accidents. FRA's position is reinforced by research and review of accident information, which confirms that railroads that provide two qualified crewmembers, who can work as an effective team on those unit trains (which commonly consist of over 100 loaded tank cars of crude oil), improve the safety of those operations.

Casselton, ND

Another train accident illustrates how having multiple train crewmembers can improve safety for the general public and the crewmembers themselves. On December 30, 2013, an eastbound BNSF Railway (BNSF) ''key train,'' consisting of two head end locomotives, one rear distributive power unit (DPU), and two buffer cars on each end of 104 loaded crude oil cars, collided with a car from a westbound BNSF ''grain train'' that had derailed less than 2 minutes earlier from an adjacent main track. Thirteen cars in the middle of the 112-car grain train had derailed, most likely due to a broken axle on the 45th railcar, and that railcar ended up fouling the main track the key train was operating over. The collision derailed the key train's two leading locomotives, as well as the first 21 trailing cars behind the locomotives. After the collision, an estimated 474,936 gallons of crude oil was released from 18 loaded tank cars fueling a fire which caused subsequent explosions as the loaded oil tank cars burned. The local fire department had requested that nearby residents voluntarily evacuate immediately following the collision and approximately 1,500 residents did evacuate. The voluntary evacuation was lifted approximately 25 hours after the collision. There were no injuries to crewmembers, emergency responders, or the general public, but images and video of the burning railcars made the accident national news.

Many members of the general public who viewed the news accounts of burning wreckage may not be aware that the heroic actions of the grain train's crewmembers potentially prevented the environmental and property damages from being much worse, in addition to potentially shortening the evacuation period. The grain train was operated by a three-person crew, which included a locomotive engineer, a conductor, and a student locomotive engineer (*i.e.,* a conductor training to be a locomotive engineer). Post-accident, the grain train crew was approached by the Assistant Fire Chief of the Casselton Fire Department who asked whether the crew could assist the emergency responders by pulling a cut of tank cars away from the burning derailed cars. Upon receiving the request, a BNSF road foreman of engines consulted with the crew to see if the crewmembers believed it was safe to move the cars, which they did. The grain train's locomotive engineer and student locomotive engineer went to the DPU on the key train and the conductor and road foreman of engines went to the east to the nearest grade crossing and made a cut of an estimated 50 tank cars. The engineer and student engineer then pulled the cars about a quarter of a mile west away from the burning train.

Approximately 45 minutes after that move was completed, the Assistant Fire Chief met the grain train's crew again and asked if additional tank cars from the key train could be moved. The grain train's crew made contact with a BNSF trainmaster and communicated the request. The trainmaster told the crew that if the move could be completed safely, they had permission to proceed.

The student engineer borrowed the Assistant Fire Chief's fire protective clothing and walked within 10 car lengths of the fire and uncoupled approximately 20 additional cars from the burning train. Then, the locomotive engineer coupled to these cars and moved them to the west creating a safety gap of approximately 25 to 30 car-lengths from the burning cars.

Adding these two emergency response moves together, the grain train's crew was responsible for moving approximately 70 loaded crude oil cars in the key train out of harm's way. These urgent moves would have been much more time consuming and logistically difficult if the grain train was operated with only a one-person crew. For those reasons, there is a question of whether either of these emergency response moves would have been attempted with a one-person crew.

Meanwhile, it is arguable that the two-person key train crew benefited from each other's presence in the cab of the controlling locomotive. The crew helped each other through the emergency by issuing appropriate warnings and sharing tasks. First, the locomotive engineer was able to warn the conductor to get down and brace for impact 4 to 5 seconds before colliding with the derailed grain train railcar, and they both were able to get down on the floor and brace themselves. The conductor admitted that he had never been in a situation where a collision was imminent, and he did not know what he was supposed to do. Although a one-person crew would not need to warn another crewmember of an impending impact, this is an example of an expert crew working together. Second, after the impact, the crew was able to assess that they were not seriously injured, and it was the conductor who first noticed that their train was on fire when he looked out the window and was able to warn the locomotive engineer of that fact. This is a clear example of the benefit a second crewmember can provide. Without a second person, the engineer may not have realized that he was in immediate danger. Third, upon hearing this news, the engineer told the conductor to ''grab your cell phone and run.'' This is another example of effective teamwork during an emergency situation. Some people do not think as clearly as others during an emergency and, in this case, the engineer, with about 9 years of experience, recognized that it was important for him to instruct the conductor with less than 2 years of experience that the crew should have their cell phones to report information and to leave the locomotive quickly. Fourth, the engineer announced the collision by radio. Reporting the incident as quickly as possible is always crucial to getting first responders to the scene of an accident. By contacting the dispatcher on the railroad's radio, the engineer was taking an important precaution to ensure other railroad operations were not adversely impacted. Had this been a one-person crew, there is a question of whether the engineer might have desired to exit the locomotive first and then notify the dispatcher, assuming the engineer believed his life was in immediate danger. Having a second crewmember present working to exit the locomotive may have freed the engineer to report the accident. Fifth, the conductor attempted to exit the front door while the engineer was reporting the accident over the radio, but finding it jammed shut, the conductor departed the locomotive through the back door located behind the engineer's seat. The engineer soon followed the conductor as it was clearly determined to be the only viable way to exit the locomotive. As the crew escaped from the locomotive, the conductor described the heat from the fire as ''intense.'' The crew could not get away from the locomotive quickly as they found themselves in knee-deep snow immediately upon exiting the locomotive. About a minute after exiting the locomotive, it was engulfed in flames. Sixth, they ran together away from the train with the engineer using his cell phone on the run to call 911 and the conductor answering the dispatcher's call on the conductor's cell phone. Thus, the two crewmembers were able to simultaneously assist with providing different officials with information that would assist the railroad and first responders. Seventh, when the engineer found out local citizens were at the crash site, he strongly urged the local police to get those citizens away from the site because the oil train was just like the one in (Lac-Mégantic) Canada, and the deputy sheriff recognized the danger. These two crewmembers worked as a team in an emergency situation to divide up tasks, warn the dispatcher and local emergency responders, and protect each other's safety. Fortunately, neither crewmember suffered any serious injuries preventing them from escaping the damaged locomotive or running to safety. Certainly, with two crewmembers, there is the potential that both crewmembers could be hurt, but there is also the possibility that one crewmember could physically assist an injured colleague. FRA believes that, from a post-accident risk mitigation standpoint, this accident is illustrative of the safety benefits a second crewmember can provide and that railroad operations, railroad crewmembers, the environment, and the general public are better served by the availability of a second crewmember. As explained in relation to the Lac-Mégantic accident, it is often impractical to expect a one-person crew to split a train, and in the case of an accident, there are added concerns regarding a one-person crew's ability to maintain communications with the dispatcher and emergency personnel while performing this potentially dangerous emergency movement. For instance, although an employee is permitted to use a cell phone during emergency situations involving the operation of the railroad under 49 CFR 220.309(b), the employee would have to remember to grab it, and the dispatcher and emergency personnel might not know the employee's phone number. If the employee took a portable railroad radio while conducting the train splitting operation, there is a significant probability that the radio signal would not be strong enough to communicate with the dispatcher. These concerns also do not take into account the fact that FRA purposely prohibits the use of electronic devices during railroad operations as they can be distractions that lead to preventable injuries and accidents. *See* 49 CFR part 220, subpart C. The benefits of a second crewmember following an accident may be especially useful when the commodities hauled pose significant risks, or a single crewmember is injured or is simply unable to perform as many tasks as quickly as two crewmembers.

B. Research Identifies Crewmember Tasks and the Positive Attributes of Teamwork; Raises Concerns With One-Person Crews, Especially When Implementing New Technology

Before FRA asked RSAC to consider accepting a crew size task, FRA was aware that some research revealed significant safety concerns with one-person crew operations. To aid the Working Group in its development of recommendations for appropriate crew size minimum standards, FRA provided five FRA-sponsored research reports, as well as one Transportation Research Board (TRB) conference report that contains presentations from multiple research reports, prior to the first meeting. This background offers a summary of the important findings of these reports, as well as a list of those reports presented, with an internet link to each report.

(1) ''Cognitive and Collaborative Demands of Freight Conductor Activities: Results and Implications of a Cognitive Task Analysis—Human Factors in Railroad Operations,'' Final Report, July 2012, DOT/FRA/ORD–12/13. The research and report was performed by the John A. Volpe National Transportation Systems Center. The report is available online at *http://www.fra.dot.gov/eLib/details/L04331.*

A primary finding of this FRA-sponsored study is that conductors and locomotive engineers operate as a joint cognitive system. The findings indicate that the conductor and the locomotive engineer function as an integrated team that often operate as a single unit with a common goal. These two crewmembers not only work together to monitor the operating environment outside the locomotive, they also collaborate in planning activities, problem solving, and identifying and mitigating potential risk. A conductor is defined as the crewmember in charge of a train or yard crew. Freight conductors supervise pre-trip activities, over-the-road operation, and post-trip activities to ensure overall safe and efficient train movement.

The freight conductor's role has evolved from primarily a physical in nature job to one that emphasizes cognitive work. The research identifies five broad categories of cognitive job duties that a freight conductor normally faces, which raises issues for each railroad that might be considering one-person train operations and how the one-person operation can be as safe as a two-person operation.

One of those five categories of cognitive job duties is to manage the train consist, including the train makeup. This duty requires the freight conductor to understand train makeup rules and apply them both in the yard and on the mainline. Experienced conductors understand the implications of car placement, car consist, and car weight and shape when building trains. Conductors must understand how the train's consist will affect train handling, which is important to ensure locomotive engineer compliance when operating the train. (It is possible that this duty could also carry over to passenger train conductors, if there were different types of passenger cars in the same train that had the potential for compatibility issues, *e.g.,* incompatible doors.)

Second, a freight conductor also has the duty to coordinate with the engineer for safe and efficient en route operations, which includes checking speed, signal indications, and engineer alertness. This duty could also include filling an engineer's knowledge gap about a territory (*e.g.,* the conductor instructs the engineer where to place a train of a certain length so the train does not block a crossing). The conductor also serves to remind the engineer about upcoming signals and slow orders and provides ''look ahead'' information to alert the engineer about hills, curves, grade crossings, and other physical characteristics of the territory that have the potential to cause operational problems. If the locomotive engineer is not in compliance with the railroad's operating rules, it is the conductor's job to bring it to the locomotive engineer's attention, or take appropriate corrective action that may include actuating the emergency brake to bring the train to an emergency stop if the conductor feels the train, its crew, or others outside the train are in danger. A significant finding was that operating in mountain-grade territory adds complexity to the job and introduces additional cognitive demands on both the conductor and the locomotive engineer.

Third, a freight conductor's duties usually extend to taking the lead on interacting with non-crewmembers, such as dispatchers and roadway workers. These communications with non-crewmembers typically takes place by radio. There may be expected and unexpected radio communications, and there may be lulls in communication and times of heavy interaction that require conductors to multitask in order to simultaneously receive/copy information received by radio while calling out signals and speed restrictions.

Fourth, the freight conductor's duties require diagnosing and responding to train problems, as well as dealing with other exceptional situations.

Fifth, railroads typically assign the freight conductor the job of managing the train crew's paperwork. Examples of paperwork managed by a freight conductor include the conductor's log, writing down orders, copying bulletins for both crewmembers received by radio, and keeping an up-to-date rulebook. When a conductor is handling all of these duties, the safety benefit is that the engineer can concentrate on operating the train.

Another issue mentioned separately in this study's final report is that in order to gain the cognitive skill and knowledge to be an expert freight conductor, a person needs about 5 years of experience. This is because there are a significant number of overarching cognitive challenges that differentiate expert conductors from less experienced ones. A quick list of these overarching cognitive challenges include knowledge of the territory, the ability to maintain situational awareness of surroundings, the ability to project the effect of consist on train dynamics, the ability to problem-solve, the ability to plan ahead, the ability to multitask, the ability to exploit external memory aids, and the ability to foster situational awareness through active communication. The study concluded that less experienced conductors are less able to handle situations that require multiple demands on attention, and they are less able to effectively problem-solve, plan ahead, or identify and avoid potential hazards. Because they have had less ''first-hand'' experience on the job, they are typically less confident in their knowledge and ability. Having a two-person crew broadens the number of experiences from which the crew can draw from.

This research also addresses the role of PTC technology and whether it can substitute for a conductor, thereby paving the way for one-person operations. The cognitive task analysis addresses this issue by laying out the multiple ways in which conductors contribute to safe and efficient train operations and contrasts this with the anticipated features of PTC systems. The report concludes that PTC can provide warnings of upcoming signals, work zones and speed restrictions; however, PTC cannot account for all the physical and cognitive functions that a conductor currently provides. For instance, conductors can support locomotive engineers in monitoring events outside the cab window for potential obstacles and hazards undetected by automated systems (*e.g.,* people working on or around the track, trespassers, cars at grade crossings). FRA acknowledges that to the extent railroads comply with this rule using crewmembers in places other than the controlling cab, the crewmember is less likely to be able to provide this function. Other functions the conductor provides is filling knowledge gaps that locomotive engineers may have, supporting decision making, handling unanticipated events, and keeping the locomotive engineer alert, especially on long, monotonous trips where there is a risk of falling asleep. For this reason, the research recommends that each railroad seeking implementation of one-person operations in the future compile a detailed list of all of the physical and cognitive tasks both the engineer and conductor perform in the cab, determine which of these tasks PTC will cover, and understand how the locomotive engineer's responsibilities would change in a one-person operation. Of course, as the one-person crew would

presumably have more required tasks than an engineer in a two-person crew (even if PTC addresses some of those tasks), the railroad should consider how the strain of additional responsibilities may impact situational awareness. FRA requests comments on how railroads can and do safely and effectively perform these tasks using one-person crews.

Removal of the freight conductor from the most common arrangement of a two-person train crew team would have significant implications for the remaining one-person crewmember. One-person train crews would need to absorb the physical tasks necessary for operations, as well as the many cognitive tasks. Some of the freight conductor's current cognitive duties would be impossible with one person. For example, with a one-person crew, there will not be a second crewmember to fill in the knowledge or experience gaps of the sole crewmember. One of the problems is that inexperienced people ''don't know what they don't know'' and therefore cannot anticipate the risk and challenges, and cannot prepare for them. Pairing a conductor and locomotive engineer so that at least one of them is highly experienced can mitigate that problem.

Another potential issue of one-person crews is that it eliminates the opportunity to work as a conductor before promotion to locomotive engineer. This is a two-fold problem. First, engineers do not get the experience of separately learning the freight conductor position. Second, engineers who are never conductors are likely to begin their engineer careers with less railroad experience than those who first become conductors. Railroads that have used previously promoted conductors for their current one-person operations may find a shortage of such competent candidates to promote within the company if they eliminate the conductor position.

(2) ''Rail Industry Job Analysis: Passenger Conductor,'' Final Report, dated February 2013, DOT/FRA/ORD–13/07. The research and report was performed by the John A. Volpe National Transportation Systems Center and can be found online at *http://www.fra.dot.gov/eLib/details/L04321.*

The purpose of this analysis was to identify key aspects of the passenger train conductor job, including the main responsibilities of the job, and the kinds of knowledge, skills, abilities, and other characteristics (KSAOs) required to successfully perform the job. The results of the analysis are useful to the railroad industry for three reasons. First, the results can be used to build training programs that address relevant and measurable KSAOs. Second, the results can be used to form the foundation for performance appraisal systems that are legally defensible and evaluate employees based on KSAOs that have been identified as related to the job. Third, the results can be used to help ensure that a hiring organization will appropriately screen new talent.

In relation to the crew size issue, this study is relevant because it explains the wide variety of KSAOs a passenger train conductor needs to possess in order to do the job well. Therefore, if a passenger railroad employs only a one-person train crew, there is a question of how one person can do all of these tasks and the tasks required of a locomotive engineer. Examples of passenger conductor KSAOs include knowledge of operating and safety rules, skill in working on and around moving equipment, judgment and decision-making ability, and a commitment to safety. Conductors use a number of different tools and types of equipment, and work with a variety of railroad personnel such as locomotive engineers, dispatchers, and foremen. The job is also physically and psychologically demanding for workers because of the prevalence of irregular work hours, out-of-doors work, and the need to lift and move heavy equipment. Passenger conductors also need to be able to carry out tasks involving passenger interaction; crew communication; crew supervision; form and record management; train inspection, troubleshooting, and repair; train makeup and handling; and emergency situations.

(3) ''Fatigue Status in the U.S. Railroad Industry,'' Final Report, dated February 2013, DOT/FRA/ORD–13/06. This report can be found online at *www.fra.dot.gov/Elib/Document/2929.* The research and report was performed by QinetiQ North America and an Engineering Psychologist within FRA's Office of Research and Development.

Train and Engine (T&E) workers, such as locomotive engineers and conductors, are safety-critical railroad employees that have the highest exposure to fatigue in the railroad industry. They are also among employees that have the longest work hours and work at night. Passenger T&E workers, as a group, are workers with the least fatigue exposure because of the predictability of their schedules and less nighttime work; however, some passenger or commuter workers are required to stay at an out-of-town location and do not return to their starting location at the end of the work period. Freight T&E work can be divided into two groups: (1) ''road freight'' work which involves moving trains over long distances between major terminals or interchange points and frequently requires overnight stays at an out-of-town location, and (2) ''local freight'' work which involves moving trains between a railroad yard and a nearby location so that the employee returns to the starting location at the end of the work period. Railroad workers are more likely to get less than seven hours of total sleep on a work day, which puts them at risk of fatigue.

Extrapolating from the findings in the study, it appears that a railroad considering a one-person train crew operation should consider whether the crewmember is likely to be fatigued. In a railroad's safety analysis, prior to implementing a one-person operation, it would be prudent for the railroad to consider what redundancy backstops have been implemented in case the crewmember falls asleep on the job. If FRA needed to review and approve an operation with less than two crewmembers, the agency would be looking to see if the railroad implemented strategies for reducing railroad worker fatigue, such as improving the predictability of schedules, considering the time of day it permits one-person train crews to operate, and educating workers about human fatigue and sleep disorders. This study could help provide a railroad with some ideas for reducing fatigue in its train crewmembers.

(4) ''Technology Implications of a Cognitive Task Analysis for Locomotive Engineers—Human Factors in Railroad Operations,'' Final Report, dated January 2009, DOT/FRA/ORD–09/03. The research and report was performed by the John A. Volpe National Transportation Systems Center and can be found online at *www.fra.dot.gov/Elib/Document/381.*

This report documents the results of a cognitive task analysis (CTA) that examined the cognitive demands and activities of locomotive engineers in today's environment and the changes in cognitive demands and activities that are likely to arise with the introduction of new train control technologies. One of the objectives of this CTA was to understand these potential new performance demands. Another of the CTA's objectives was to evaluate the interaction between the locomotive engineer and the conductor and how they work jointly to operate the train in a safe and efficient manner. At the time of the CTA, the researchers assumed that railroads would continue to use a two-person crew configuration and so the analysis in this report does not explicitly consider any additional

sources of cognitive workload that may arise should there be a transition to single-person operations. The study notes that each crewmember has a duty to catch and correct the errors made by the other crewmember.

The research examined the following types of PTC systems: (1) Communications-based train management (CBTM), (2) advanced speed enforcement system (ASES), (3) incremental train control system (ITCS), (4) electronic train management system (ETMS), and (5) North American Joint Positive Train Control (NAJPTC). This 2009 study acknowledges that the PTC systems are described and analyzed as they were implemented at the time of the site visits and, in some cases, the PTC systems may have undergone substantial redesign since then.

The results pointed to major cognitive challenges involved in operating a train, including the need for sustained monitoring and attention; maintaining an accurate situation model of the immediate environment (including the location, activities and intentions of other agents in the vicinity such as other trains and roadway workers); anticipating and taking action in preparation for upcoming situations; and planning and decision-making, particularly in response to unanticipated conditions (*e.g.,* person or object obstructing the track). Introduction of new train control technology reduces some cognitive demands while creating new ones. For example, as four out of the five PTC systems tested used conservative braking profiles to slow the train to the desired target speed under restrictive assumptions (*e.g.,* heavy train or slippery track), train crews discovered that they would need to initiate braking at an earlier point than they were normally accustomed to if they wanted to prevent the PTC system from braking the train for them. This earlier braking point conflicts with the experienced crews' effective strategies for operating as efficiently as possible. A penalty brake application is highly undesirable because it significantly delays train operations and may trigger report or documentation requirements to explain why the penalty brake occurred. The report also discusses the implication of the results for design of in-cab displays and development of training, particularly for PTC systems. The research suggests there is a need for development of in-cab displays that make it easier to anticipate and stay within the braking curve without having to look closely at the in-cab display so that more attention can be directed to looking outside the window.

The PTC systems also created new sources of workload and distraction. Sources of workload and distractions include the need to acknowledge frequent (and often non-informative) audio alerts generated by the PTC system and the need for extensive input to the PTC system during initialization and when error messages occur while operating the train. For example, the NAJPTC system is described as having a train location determination system (LDS) that is able to locate train position within 10 feet but it would trigger a failure alarm when the LDS system experienced difficulty identifying the train location. The failure alarm sounded repeatedly, requiring the train crew's attention. Although this situation described was an early test of the system, and no consequences of failing to respond to the alert occurred, when the test period ends a failure to respond to an alert quickly might result in a penalty brake. The experiences of European railroads suggest that the concern expressed by the locomotive engineers regarding too many non-informative alerts has a potential for negative safety consequences. Operators may respond to poorly designed audio alerts automatically without fully processing their meaning, thus defeating their purpose. This is consistent with an extensive body of human factors literature that indicates that individuals are likely to ignore alarms when a high false alarm rate exists. (Please note that FRA's PTC regulation prohibits requiring a locomotive engineer to ''perform functions related to the PTC system while the train is moving that have the potential to distract the locomotive engineer from performance of other safety-critical duties,'' which would include distracting, non-useful alerts. *See* 49 CFR 236.1006(d)(1), formerly § 236.1029(f)).

The new cognitive demands created by new technologies such as PTC can lead to changes in how locomotive engineers operate the train. Locomotive engineers certainly combine the current information they can obtain from direct perception (*e.g.,* displays inside the cab as well as the scene outside the cab), in addition to knowledge and skills gained through training and experience to develop train handling strategies. Sources of new cognitive demands include constraints imposed by the PTC braking profile that require locomotive engineers to modify train handling strategies, increases in information and alerts provided by the in-cab displays that require locomotive engineers to focus more attention on in-cab displays versus out the window, and requirements for extensive interaction with the PTC systems (*e.g.,* to initialize it and to acknowledge messages and alerts) that impose new sources of workload. The research concluded that although PTC technology is likely to have a positive impact on overall risk of accidents, these new sources of cognitive demand can contribute to errors and accidents.

Railroads and PTC system designers need to be made aware that measures can be taken in the design of PTC displays and in development of user training to improve train crew performance and reduce the potential for human error. The final section of this report discusses a number of suggestions for ways to improve in-cab displays to reduce cognitive demands on train crews and facilitate train crew performance as well as suggestions for improved training. For example, one promising area for research and development is improved in-cab displays that minimize the need to visually attend to the in-cab display to extract important information. The research found that a substantial learning curve exists to reach the point where the in-cab display does not serve as a source of distraction, diverting attention away from events out the window. Locomotive engineers must have sufficient experience in running a PTC-equipped train as part of training so that they get beyond the point where close monitoring of the in-cab display is required to avoid a penalty brake application.

Another PTC issue related to crew size is that PTC systems generally require manually entered inputs at the start of a trip and after a shutdown of the system during train operations. The train crew must enter information that the system will use as parameters for safe operation. These data entry tasks provide another source of workload and distraction, yet they are highly important because manual entry errors can have safety implications. With a one-person crew, the task burden would fall on the sole crewmember. Although a railroad might consider that if there is only one-person in the locomotive cab, the person should not operate without the PTC system operational, reinitializing the PTC system after it has initiated a penalty brake application can be a complex and time-consuming procedure. On one railroad described in the research, the procedure is so complex, difficult to follow, and time-consuming that, during the PTC system's trial period, the locomotive engineers were allowed to forego reinitializing the PTC system. However, the study noted that once the system

becomes fully operational, running a train without PTC activated may no longer be an option.

This study is important to the crew size issue because it challenges the possibility that a train with PTC is inherently safe with only a one-person crew and that no safety analysis or FRA oversight of the operation is warranted. The study concluded that although PTC technologies have the potential to improve safety and efficiency of railroad operations, they also have the potential to create new failure modes and impose new cognitive demands on locomotive engineers who need to monitor PTC displays and provide inputs to the system. For example, without PTC technology, locomotive engineers are highly engaged with the train operation, noticing visual cues (*i.e.,* landmarks and mileposts), monitoring radio communications of other trains, and relaying information by radio to other trains about potential hazards. Some locomotive engineers even indicated that they get a variety of sensory-based cues that help them perceive their location, such as vibrations associated with a portion of track or a smell that reminds them they are near a farm. The research suggests that because the PTC technology may require locomotive engineers to focus more of their attention on in-cab displays, it will reduce their ability to monitor activity outside the cab and raises a question about whether the engineers will lose any situational awareness in relation to the coherent mental picture (*i.e.,* the situation model) of where the engineer perceives the train to be based on prior experience. Typically, a locomotive engineer will use that situation model to help the engineer anticipate future events. Furthermore, the research concluded that train crews must avoid too much reliance on the new train control technologies because, if the system ever fails, the engineer must still be able to operate the train safely.

(5) ''Using Cognitive Task Analysis to Inform Issues in Human Systems Integration in Railroad Operations–Human Factors in Railroad Operations,'' Final Report, dated May 2013, DOT/FRA/ORD–13/31. The research and report was performed by the John A. Volpe National Transportation Systems Center and can be found online at *http://www.fra.dot.gov/eLib/details/L04589.*

Human Systems Integration (HSI) is defined as a systematic, organization-wide approach to implementing new technologies and modernizing existing systems that emphasizes the importance of the end-user in the system acquisition process. FRA sponsored this research because it would like the railroad industry to consider HSI when implementing new technologies such as PTC, energy management systems (EMS), and electronically controlled pneumatic (ECP) brakes in the locomotive cab. The expectation is that an HSI approach to railroad technology acquisition and implementation can increase user acceptance and usability of the technology, as well as increase the likelihood that it is deployed successfully. This report provides guidance to the industry with respect to the need for HSI in the technology acquisition process, and more specifically, how to use Cognitive Task Analysis (CTA) methods and results as part of the HSI process.

The nature of the work associated with many railway worker positions (*e.g.,* locomotive engineers, conductors, and roadway workers) is rapidly shifting from being primarily physical to placing greater emphasis on cognitive demands (*e.g.,* monitoring, supervising automated systems, planning, communicating and coordinating, and handling unanticipated situations). CTA methods provide a means to explicitly identify the knowledge and mental processing demands of work so as to be able to anticipate contributors to performance problems (*e.g.,* lack of information, high attention demands, inaccurate understanding) and specify ways to improve individual and team performance (be it through new forms of training, user interfaces, or decision-aids). CTAs can inform all aspects of HSI starting from early system requirements exploration and definition through late stage validation and field testing. The information in the report can serve as a lead-in to the kinds of insights that can be drawn from performing a CTA when introducing new technologies into railroad operations, as well as a starting point for the industry as far as identifying the likely emerging issues that need to be explored as a result of the introduction of new technology. For example, CTA methods can examine how the introduction of PTC might impact the monitoring demands placed on locomotive engineers, or alter the patterns of communication between locomotive engineers and other railroad workers. CTA methods can inform the design of systems that are more likely to be successful when deployed by ensuring that they address the specific performance challenges users face and are sensitive to the larger system context. A CTA can be used to better understand the various roles and responsibilities associated with each crew position to be able to assess which of those roles and responsibilities are eliminated (or taken on) by the new technology and which remain and must be accounted for in some other way if the crew position is eliminated. FRA has significantly aided this HSI analysis by previously sponsoring CTA reports that focused on railroad dispatchers, roadway worker activities, locomotive engineers, and freight train conductors (the two latter reports were previously described in this preamble section).

The report cites a prior research finding that the introduction of new technology does not necessarily guarantee improved human-machine system performance. Woods, D. & Dekker, S., ''Anticipating the effects of technological change: A new era of dynamics for human factors,'' Theoretical Issues in Ergonomics Science, 1(3), 272–282 (2000); National Research Council (NRC) Committee on Human-System Design Support for Changing Technology, ''Human-System Integration in the System Development Process,'' National Academies Press (2007), *http://www.nap.edu/catalog.php?record_id=11893;* and Wreathall, J., Woods, D.D., Bing, A.J. & Christoffersen, K., ''Relative risk of workload transitions in positive train control,'' Washington, DC: U.S. Department of Transportation, Federal Railroad Administration. DOT/FRA/ORD–07/12 (2007), *http://ntl.bts.gov/lib/42000/42400/42472/ord0712.pdf.* Poor use of technology can create additional workload for system users, can result in systems that are difficult to learn or use, or, in the extreme, can result in systems that are more likely to lead to catastrophic errors. The introduction of new technology results in the following types of common changes in operating practice: (1) Changes in practitioner roles, including emergence of new tasks; (2) changes in what is routine and what is exceptional; (3) changes to the kinds of human errors that can occur; and (4) people in their various roles adapting by actively altering tools and strategies to achieve goals and avoid failure. HSI is a way to employ a comprehensive analysis, design, and evaluation process that mitigates the risk of designing systems that create potential mismatches between the technology and the human operator limitations or capabilities. For example, in reviewing the freight train conductor CTA and how it could inform the HSI process regarding issues of one versus two-person train crew operation, the study concluded that ''[i]t is not clear how the introduction of PTC will affect cognitive and collaborative

processes, but findings suggest that it will not account for all the cognitive and physical support functions the conductor currently provides.''

The study found that there are other CTA methods that can be used to provide more fine-grained input to HSI analysis and design activities. For example, there are CTA methods that provide a more detailed, second-by-second description of the mental processes (*e.g.,* perceptual processes, attention processes, memory store and retrieval processes) involved in performing complex cognitive tasks such as operating a train. The study provides descriptions and citations to these recent attempts to examine the microlevel (second-by-second) information processing involved in operating the train over a route. These more microcognitive-level analyses can be particularly helpful for analyzing attention and workload demands at an in-depth level.

In the emerging issues section of the report, the study explained that if a railroad chooses to transition to one-person operations based on technology such as PTC, a proper HSI analysis would require that the railroad answer certain fundamental questions about the operation for the system designers. For instance, will the engineer still be responsible for manually operating the train? If not, when will the engineer manually control the train? When will the software (automation) system operate the train with the engineer acting as supervisor? And, when will the roles be blended? Answers to these questions may introduce additional concerns. For example, situational awareness and operator vigilance may become more of a concern when the engineer's role becomes more supervisory. If crew size is reduced to one person, how will the reduction in crew size impact safety when the one-person crew is used to relying on cooperative strategies with the second person that fosters shared situational awareness and creates safety nets?

(6) ''Teamwork in U.S. Railroad Operations,'' A Conference, April 23–24, 2009, Irvine, California, Transportation Research Board, Number E–C159, dated December 2011. The many authors of the research and reports are listed in the publication which can be found online at *http://onlinepubs.trb.org/onlinepubs/circulars/ec159.pdf.*

This conference report discusses the key aspects of successful teams, such as train crews. The Transportation Research Board is a division of the National Research Council, and an independent adviser to the Federal government and others on scientific and technical questions of national importance. This particular conference drew upon the expertise of researchers and operating personnel concerned with human performance and human factors research issues related to railroad operations. The following is a summary of some of the relevant discussions in the conference report. The report contains citations to the research each presenter relied on in forming their analyses and conclusions.

One central theme is that teams do not become expert without guidance. They must be trained according to the established scientific principles. But training alone is not enough. To facilitate its success, organizations must promote and reinforce teamwork behaviors. Long-term organizational commitment is crucial to demonstrating that teamwork training is not just a fad, but is a central component of company policies and procedures. In other words, there needs to be a ''culture of teamwork'' embedded within the organization.

Team performance can be improved when members effectively communicate. One effective example is when crews use periods of low workload to plan ahead, so that if a difficult situation arose, the explicit discussions become the basis for actions. Of course, a question implied from this report is that if the train crew consists of only one person, can the lone crewmember plan ahead during periods of low workload to the same extent as a crew of two or more persons who understand how to effectively communicate? Unfortunately, the conference report does not answer this implied question.

There are five critical components of teamwork: Mutual performance monitoring, backup behavior, adaptability, team leadership, and team orientation. Although not addressed by the conference report, arguably three of these strengths of teamwork are lost when the team consists of only one person. Team orientation refers to a person's tendency to prefer working with others, which could certainly be problematic if a person with a team orientation is ordered to operate a train as a one-person team. Mutual performance monitoring refers to the ability to keep track of fellow team members' work while carrying out their own, to ensure that everything is running as expected, and to ensure that they are following procedures correctly. Mutual performance monitoring is necessary in teams in order to prevent teams from making errors and enable teams to engage in backup behaviors. Backup behavior occurs when a team member recognizes that another team member is in need of aid and offers assistance. Backup behavior requires team members to know enough about other team members' responsibilities to anticipate their needs. Research has identified three types of backup behavior: (1) Providing feedback to improve performance, (2) assisting a teammate in performing a task, and (3) completing a task for a team member who is overloaded. The benefits of mutual performance monitoring and backup behavior are simply lost when the team consists of a single employee.

One comment FRA heard during the RSAC Working Group meetings was that multiple person train crews could be less safe than a one-person crew because sometimes crewmembers distract each other from the train operation activities. This issue was addressed in the conference report with regard to a discussion of how expert teams perform versus non-expert teams. An example was given of a train accident in which a student engineer was allowed to operate a train independently, receiving no guidance through supervisor role modeling or feedback prior to a collision. The incident was an exemplary prototype of a non-expert team because not only were the crewmembers not trained adequately with effective feedback prior to the day of the accident, but also communication and coordination completely broke down between all team members directly before the incident. In contrast, expert teams have a clear and common purpose, as well as an understanding of each individual member's roles. It is that understanding that allows expert team members to anticipate each other's actions and back each other up when needed, as well as coordinate without explicit and lengthy communication. Furthermore, unlike non-expert teams, expert teams engage in a regular cycle of prebrief, performance, and debrief. This performance cycle engages the expert teams to identify high and low priorities, revise goals and plans, identify lessons learned, and evaluate whether the team is or is not effective both in performing the task and identifying the needs of team members. The research in the conference report concludes that the main advantage of developing expert teams is that they have higher levels of performance. For example, expert teams make better decisions and fewer errors, which in turn enable expert teams to have a higher probability of mission success.

In yet another of the presentations in the conference report, an issue raised was whether internal and external

communications of train crewmembers could be captured to consider the impact of new technology, such as PTC, on crew interactions and performance. The report states that making the most of new technologies to improve efficiency while maintaining safety and augmenting effectiveness will always present challenges, but that prudent application of team science in general and of communications analysis in particular can both facilitate their achievement and enhance their utility. The report explains that those technologies place new demands on train crews in terms of tasks to be performed, skills required, and the size and mix of both onboard and distributed teams. FRA notes that, based on RSAC Working Group discussions, some railroads appear ready to reduce train crew size from two persons to one, upon implementation of PTC, under what FRA and the presenters of this report suggest would be a wrong presumption that with PTC there would be less tasks for the crew to do or the tasks would be easier to accomplish with a single person. The report counters that presumption and suggests that the impact is unknown until PTC is implemented and the impact it would have on a two-person crew is studied.

C. The Acknowledged Limitations of FRA Accident/Incident Reporting Data

FRA's accident/incident data is derived from the agency's requirements for railroads to record and self-report specific information to FRA. The purpose of FRA's accident/incident recordkeeping and reporting regulation, contained in 49 CFR part 225, is ''to provide the Federal Railroad Administration with accurate information concerning the hazards and risks that exist on the Nation's railroads. FRA needs this information to effectively carry out its statutory responsibilities under 49 U.S.C. chapters 201–213. FRA also uses this information for determining comparative trends of railroad safety and to develop hazard elimination and risk reduction programs that focus on preventing railroad injuries and accidents.'' 49 CFR 225.1. Over the life of the part 225 regulation, FRA has amended these requirements in an effort to require railroads to improve the accuracy of their reporting. *See* 75 FR 68862, 68863–64 (providing an overview of part 225 and recent amendments). FRA does not investigate every reportable accident/incident, but frequently conducts audits and investigations to ensure that railroads are accurately reporting. In 2013, FRA conducted its own investigation of 89 train accidents/incidents that FRA determined might have greater significance to the industry or the general public. FRA did not have the resources to investigate all of the 1,781 train accidents/incidents railroads reported to FRA in 2013. FRA is not aware that any of the accidents/incidents it investigated involved a one-person crew operation.

Part 225's central provision requires that each railroad subject to part 225 submit to FRA monthly reports of all accidents and incidents that meet FRA's reporting criteria. 49 CFR 225.11. Railroad accidents/incidents are divided into three groups, each of which corresponds to the type of reporting form that a railroad must file with FRA: (1) Highway-rail grade crossing accidents/incidents (FRA Form F 6180.57); (2) rail equipment accidents/incidents (FRA Form F 6180.54); and (3) deaths, injuries and occupational illnesses (FRA Form F 6180.55a). *See* 49 CFR 225.19. For the reporting of deaths, injuries, and occupational illnesses that result from an event or exposure arising from the operation of a railroad, the FRA forms do not request that the railroad record the number of crewmembers as that distinction is unlikely to be pertinent to accident analysis for those types of accidents/incidents; instead, FRA only requires that the railroad report which crewmembers were injured, killed, or suffered an illness. Thus, it is impossible to search FRA's accident/incident database for those forms to find whether a death, injury, or occupational illness did arise from the operation of a train with a one-person crew. Meanwhile, for the first and second group, highway-rail grade crossing accidents/incidents and rail equipment accidents/incidents, the FRA forms record the number of crewmembers. The highway-rail grade crossing accidents/incidents form records the number of people on the train at the time of the accident (both passengers and train crew). The rail equipment accidents/incidents form records the number of crewmembers in boxes 40–43, with four different work positions listed: Engineer/Operator, Fireman, Conductor, and Brakeman. Obviously, FRA does not see as many Fireman and Brakeman listed as it once did, but they are still occasionally listed. The railroad must record the number of each type of crewmember that was working on the train at the time of the accident/incident. Thus, FRA is able to search the records to determine how many train crewmembers were assigned to a train that was involved in a reportable rail equipment accident/incident or a grade crossing accident.

FRA is considering including in the final rule a requirement to report train crew size data in the deaths, injuries, and occupational illnesses accident report form. Such a regulatory change would allow FRA to have crew staffing information and to better assess the performance of train crews with less than two members. The benefits of this proposed change would be evaluated while FRA conducts a future comprehensive reform of its accident/incident reporting forms to modernize and meet data needs. As it relates to crew staffing and its characteristics, the impetus for this effort originated during the RSAC Working Group meetings regarding train crew size. This effort made it clear that there is a need to improve both the quality and the scope related to the collection of information of train crew staffing safety. As presented above, existing data forms do collect information about the number of crewmembers involved in a train accident. However, current reporting requirements do not provide all the information required to assess the safety performance of crews with less than two members. Likewise, FRA data needs outside of this rulemaking are numerous and need to be contemplated. For these reasons, FRA is engaged in an effort to review and determine what data collection practices need to be changed. However, FRA also concluded that this effort has to be thoughtful and broad to ensure it collects high quality data. FRA is considering how to prioritize items and decide what data to collect on items such as ECP brakes, PTC, or crude oil or ethanol transportation by rail. All these matters are of high priority and would have to be considered in a comprehensive manner to minimize information collection burden on the regulated community. This NPRM is useful to request public input as it pertains to crew staffing data and determine what type of information collection needs to be refined or what clarification in the part 225 guidance needs to be amended to ensure forms are completed correctly. This input would be used to inform a future rulemaking that would propose changes to part 225, FRA Form F 6180.54, and its related guidance.

For the benefit of the RSAC Working Group, FRA reviewed nearly 12 years of railroad safety data between January 2002 and October 2013 by searching the F 6180.54 rail equipment accidents/incidents forms. FRA manually reviewed 1,443 reports and applied several filters to eliminate redundant reports, other than human-factor caused

accidents/incidents, accidents/incidents that occurred within railroad yards, and accidents/incidents involving railroad maintenance equipment. After applying these filters, FRA was left with accidents/incidents that railroads informed FRA were caused by human error and involved a one-person crew operating on main track. The result of this review was that FRA identified 28 human-factor caused accidents/incidents involving one-person crews operating conventionally and four accidents/incidents involving remotely controlled operations on main track. Since FRA does not capture data that would provide information regarding the total operating mileage for one-person crew operations in the United States (or even two-person operations), it is impossible for FRA to normalize the data and be able to compare the accident/incident rate of one-person operations to that of two-person train crew operations to see if one-person operations appear safer or less safe. Additionally, one-person operations over this period are not constant and use of one-person train crews for operations on main track appear to be increasing over the past several years, so there are additional factors that could make historical rates less of an indicator of current or future rates.

The accident/incident reports involving one-person train crews also do not clearly help determine that the accident/incident would have been prevented by having multiple crewmembers. FRA requires railroads to determine the primary cause of a rail equipment accident/incident and enter a primary cause code on the form. If possible, railroads are also encouraged to enter a contributing cause code on the form as well. FRA does not have a cause code that a railroad could use to indicate that a one-person train crew caused the accident. In other words, there is no cause code that directly suggests that the reporting railroad believes the accident/incident could have been prevented by having a second crewmember. Even if FRA were to add such a code, a railroad would have a disincentive to use it as doing so might suggest that the railroad employ more crewmembers, increasing wage costs. Of course, if a railroad thought that only having one person was a factor, FRA has a cause code, M599, that may be used when no other cause codes apply. If M599 is used, the railroad must describe the events in a narrative. Furthermore, FRA relies on each railroad to self-report a description of the accident/incident, as well as the primary and contributing causes. Without an accurate description and identification of the causes, FRA personnel reviewing the report might not believe there is the potential that a second person could have helped prevent the accident/incident.

After RSAC failed to reach consensus, FRA conducted additional accident/incident data searches in an effort to determine whether there were any trends that could be identified. FRA looked at whether any data might have suggested a safety problem with MMA, which operated the train in the tragic Lac-Mégantic accident described earlier, or with any problems with shortline railroads that were similar in size to MMA. Rather than compare MMA to the entire railroad industry which could provide a distorted result (as just a few accidents on a shortline might make it look like it has a high accident rate compared to a major railroad that operates many more miles over the course of a year), FRA compared MMA to its shortline peers. In 2012, the last full year before the accident, MMA had about 160,000 total miles. FRA reviewed its accident/incident database from 2003 through April 2014 and compared MMA to the 52 other railroads that had total miles in 2012 of between 100,000 and 200,000. FRA also looked at the data to see if it could determine the number of accidents for each of these shortlines, with and without one-person crews. For the one-person crews, FRA was able to isolate train accidents where hazardous materials were in the train, and eliminate remote control operations and any operation that occurred on yard track.

The data concerning MMA and its shortline peers revealed that nearly half of the 52 shortlines (25, or 48 percent) had at least one accident where hazardous materials were in the train, but that MMA had the worst record in this category. MMA had 18 accidents, which was twice as many as its closest shortline peer. MMA's 18 accidents accounted for 23 percent of the 78 total number of accidents in its shortline peer group where hazardous materials were in the train. Although only 4 of these 78 accidents/incidents occurred with a one-person crew (about 5 percent), 2 of the 4 occurred on MMA. Looking at all one-person crew train accidents in which a MMA shortline railroad peer reported the cause to be a human factor failure, MMA reported no such accidents and 9 of MMA's shortline peers reported a total of 13. Consequently, while it can be determined that the two MMA one-person crew accidents involving hazardous materials in the train were not reported by MMA to be caused by a human factor failure, the data suggests that MMA stood out as having significantly more accidents involving trains carrying hazardous materials than its peers.

When looking at all train accidents in which a MMA shortline railroad peer reported the cause to be a human factor failure, MMA reported four such accidents, 4 of MMA's shortline peers also reported 4 such accidents, 13 of MMA's shortline peers reported more than 4 such accidents, and 39 of MMA's shortline peers, including MMA, reported a total of 153 human factor failure caused accidents. Including MMA, over 70 percent of MMA's shortline peers had at least one train accident caused by human factor failure, and 25 percent had more human factor failure train accidents than MMA. Thus, MMA did not stand out among its peers as having a much higher number of accidents attributed to human factor failure. FRA believes that even in cases where problematic one-person train operations cannot be identified by their number of past human factor accidents, FRA would be able to identify such operations with other information including inspection reports, and the railroad's description of operations and contingency plans to evaluate the safety culture and overall emergency preparedness to handle one-person operations.

If FRA were only to focus on the one-person crew safety data prior to the Lac-Mégantic accident, it would have been difficult to make the case that MMA did not have a good enough safety record to operate one-person train crews as MMA did not have any accidents/incidents that it attributed to human factor failure of the one-person train crew. It also only had 2 one-person crew accidents involving hazardous materials in the train over the more than 10-year period analyzed. However, if this NPRM is finalized, FRA could use the data suggesting MMA had significantly more accidents involving trains carrying hazardous materials than its peers to have MMA address safety issues to reduce the overall high number of accidents before providing FRA approval of the continuance of a one-person train operation or approval for a new one-person operation. *See* 49 CFR 218.133 and 218.135.

Furthermore, this is an example of when the limitations of FRA's safety data would not help make a direct case that one-person operations are less safe than multiperson train crews but may still provide some possible basis for this proposed rule. That is, FRA's safety data suggests that a particular railroad that has a higher rate of train accidents

where hazardous materials are in the train could find itself more likely to continue that trend regardless of the size of the crew, assuming the railroad takes no action to further prevent such accidents from occurring. And if such accidents were to eventually occur, FRA has found that multiperson train crews are better equipped to protect each other, other railroad workers, railroad equipment, the environment, and the general public, because they have more options available to them for taking mitigation measures than a single crewmember. Thus, a derailment might occur, regardless of the number of train crewmembers, but it might be the actions of the train crew post-accident that determine the severity of the damages or injuries that result. This may be especially so when hazardous materials are present in the train or are in other trains operating on the same or adjacent track.

While data and information about one-person operations around the world are limited, evidence found by FRA and explained in the Regulatory Impact Analysis (RIA) that accompanies this rulemaking indicates that the safety records of these foreign operations are acceptable. FRA also found that most of these foreign operations would meet the requirements in one of the exceptions of the proposed rule (due to their size), and that most foreign governments have a role in the implementation of one-person crews (where they exist). Another factor to consider is that railroad workers in other countries have a more predictable work schedule, fewer working hours per week, and more opportunities to rest. *See* RIA Table 4. Nonetheless, FRA requests public comment on the lessons learned from these nations to implement one-person crews under a balanced regulatory oversight. Additionally, FRA requests public input about the safety performance of passenger and freight rail operations with less than two people in other countries. This is important because FRA could not find specific data on the safety records of international one-person crew passenger operations that do and do not meet the proposed exceptions.

Finally, railroads have achieved an improving safety record during a period in which the industry largely employed two-person train crews. FRA has no empirical evidence to suggest a causal relationship between these variables rather than a correlative one. In fact, it is possible that one-person crews have contributed to the improving safety record. Comparing calendar year 2004 to 2013, total accidents/incidents are down over 21.5 percent and human factor-caused train accidents/incidents are down over 50 percent. Over that same period, the number of reportable train accidents/incidents has decreased from 3,385 in 2004 to 1,781 in 2013, a decrease of over 47 percent. The normalized frequency index of 2.380 per one million train miles for 2013 represents the safest year in that 10-year period, and is a decrease of nearly 46 percent from 2004. Meanwhile, it is impossible to keep data on how many accidents/incidents were prevented by having a properly trained two-person crew, where each crewmember understood each other's duties and together could perform as an expert team. Thus, although the limitations of the data collected make it difficult to make a straightforward finding that one-person operations are more or less safe than two-person operations, FRA's approval process in this NPRM is expected to provide some insight into exposing dangerous operations and lead to safety improvements for those railroads that want to reduce the number of train crewmembers to less than two.

D. FRA's Regulations Were Designed for at Least Two Crewmembers

During the Working Group's first meeting, FRA presented the agency's position that many of the Federal rail safety regulations were written with the expectation that each train would have multiple crewmembers. That does not mean that FRA expects that at least two crewmembers will be in the cab of the controlling locomotive at all times, which may surprise some people who are not familiar with a wide-variety of railroad operations. A typical freight locomotive is founded with the expectation that multiple crewmembers could be working in the cab of the controlling locomotive. However, there are many operating circumstances in which a second crewmember could more effectively safeguard the operation by being somewhere other than the locomotive cab of the controlling locomotive and it would be difficult for a one-person train crew to perform the same operation. Because a railroad's operating rules and practices for a one-person operation will be a bit different than for multiple person train crews, some safeguards will be lost and new methods of operation will be developed to try and plug any regulatory holes. Without a crew size regulation, railroads would be free to jettison certain requirements that apply to multiple person crews without specifically being required to fully consider the potential safety repercussions. The following background explains some of the Federal rail safety requirements that will not work as intended when one-person train crews are deployed.

1. Difficulty Providing Point Protection for Shoving or Pushing Movements

For shoving or pushing movements, a second crewmember routinely provides point protection where the controlling locomotive is the furthest car in the train from the leading end. *See* 49 CFR 218.99. In that case, a second crewmember riding the leading end or being on the ground in radio communication with the train's locomotive engineer may be the safest practice. A one-person train crew, operating any train of a significant length, may have difficulty determining that the track is clear for the shoving or pushing movement without the assistance of another person. Shoving blind, *i.e.,* not protecting the movement, would violate the Federal rule.

Passenger and commuter locomotives do not always have room for a second crewmember in the locomotive control compartment, but a second person may still be necessary to provide assistance for shoving or pushing movements. Pushing or shoving movements are routine operations and thus FRA's expectation is that few trains could perform these movements safely with only a one-person crew. We note, however, that the point protection rule permits use of cameras for performing these movements. *See* 49 CFR 218.99(b)(3)(i).

2. Complications Returning Switches to the Normal Position and Loss of Job Briefings

In a typical multiple crewmember operation, the locomotive engineer would rarely be expected to leave the cab of the controlling locomotive to perform operational work. However, in a one-person operation, unless all switches can be operated from the locomotive or by a non-crewmember in accordance with a railroad's operating procedures, the locomotive engineer would encounter logistical difficulties in throwing some switches and then returning those switches and locking them in the normal position after use. *See* 49 CFR 218.103 through 218.107. If the one-person crew were to throw the switches and return them to the normal position, the person would need to walk back and forth the length of the train each time a switch was returned to the normal position.

The Federal regulations concerning throwing switches anticipate that the crewmembers will conduct job briefings ''before work is begun, each time a work plan is changed, and at completion of

the work.'' *See,* 49 CFR 218.103(b)(1). The regulation does not anticipate that a train crew consisting of one-person would be exempt from the job briefing requirements, although it seems absurd to think that any one-person train crews would need to hold job briefings with themselves. However, one of the most important benefits of a job briefing, with each crewmember's input, is potentially lost when there is a one-person operation. That is, a lone crewmember cannot benefit from another crewmember's experience about the best way to safely perform the operation. Under routine operations, one-person crewmembers will decide for themselves how best to proceed. The one-person crewmember will also assess the factual circumstances of a situation by themselves, without the benefit of any additional crewmembers' observations. Although a railroad could implement procedures to address certain types of operations that can aid a one-person crew, such a briefing may not be able to duplicate all of the information that a fellow crewmember could.

3. Concerns Protecting Train Passengers in an Emergency

During the first Working Group meeting, FRA made a presentation regarding FRA's passenger train emergency preparedness rule (49 CFR part 239) and explained how multiple train crewmembers are typically necessary in order to fulfill the purpose of the rule. The purpose of the passenger train emergency preparedness rule ''is to reduce the magnitude and severity of casualties in railroad operations by ensuring that railroads involved in passenger train operations can effectively and efficiently manage passenger train emergencies.'' 49 CFR 239.1(a). There are numerous ways that crewmembers, other than the locomotive engineer, can assist the passengers in an emergency. Emergencies can require evacuations in various types of circumstances where a trained person would be helpful to guide passengers away from danger. For example, passengers that self-evacuate might not realize that they could step on an electrified rail or be struck by a train approaching on an adjacent track. Evacuations in remote areas, in tunnels, or on bridges also pose significant dangers to passengers and are places where crewmembers are required to be trained on safe methods to assist passengers. A one-person crew would have significant difficulty coordinating any type of evacuation, especially in difficult terrain, if the crewmember cannot walk from car to car, or if there are large numbers of passengers. Furthermore, although signs for train passengers can be useful, signs have limited value for reliably instructing passengers on when it is safe or unsafe to evacuate under all conditions.

4. Deterrence of Electronic Device Distraction and Observing Alcohol or Drug Impairment; Reduced Possibility of Co-Worker Referrals

Another issue that could be a concern with a one-person train crew is whether there is adequate supervision to determine that the person is not reporting for duty under the influence of or impaired by alcohol or drugs. With multiple train crewmembers, a second crewmember might suspect that a person has used, or is using or possessing alcohol or drugs on railroad property. Working with a potentially impaired co-worker is a safety hazard that puts other crewmembers in direct conflict with one another. For that reason, FRA has developed minimum standards for co-worker report policies that allow the employee suspected of abuse to get treatment and rehabilitation, with the potential to return to railroad safety-sensitive work under certain conditions. *See* 49 CFR 219.405 and 219.407 (permitting a railroad to implement an alternate co-worker policy with the written concurrence of the recognized representatives of a particular class or craft of covered employees). The co-worker referral policy makes it more palatable for an employee to turn in a potentially impaired co-worker, knowing that the co-worker will have an opportunity to get professional help without the co-worker necessarily losing his or her job, and not having to work side-by-side with that impaired co-worker.

Although a one-person crew may be subject to pre-employment testing, random testing, and testing for cause, each of these types of tests do not apply to shortline railroads which have a total of 15 or fewer employees who are covered under the hours of service laws and do not operate on the tracks of any other U.S. railroad. Additionally, even if a one-person crew is potentially subject to each of those tests, the person will not be tested before, during, or after every tour of duty. Thus, a one-person crew has more opportunity, especially on the smallest shortline operations, to conceal a drug or alcohol violation, than the person would if there were two or more crewmembers.

Similarly, without a second crewmember to monitor the sole crewmember's attentiveness, there is a risk that more locomotive engineers will be tempted to use cell phones and other prohibited electronic devices when nobody is around to observe them. When FRA issued a final rule restricting railroad operating employees from using cellular telephones and other electronic devices, FRA noted that distracted driving impacts all transportation modes because these devices have become ubiquitous in American society. *See* 75 FR 59580, 59582, Sep. 27, 2010, promulgated at 49 CFR part 220, subpart C. In the justification for the rulemaking, FRA stated that it discovered numerous examples of the dangers posed by distracting electronic devices and described five rail accidents indicating the necessity for the restrictions. FRA's electronic device distraction rulemaking also stated that ''it is difficult to identify distraction and its role in a crash'' if it goes unreported by the operator of the vehicle. 75 FR at 59582 (describing how data on the number of motorcoach crashes may potentially understate the true size of the problem because ''self-reporting of negative behavior, such as distracted driving, is likely lower than actual occurrence of that behavior). Thus, a second crewmember could act as both a deterrent to any crewmembers using electronic devices in a prohibited manner and as a witness reporting such inappropriate electronic device usage during an accident/incident investigation.

5. Complicating Radio Communication Procedures

Some radio and wireless communication requirements were written with the expectation that there would be at least two crewmembers on a train. For example, FRA requires that an employee copying a mandatory directive received by radio transmission shall not be an employee operating the controls of moving equipment. *See* 49 CFR 220.61. Copying a mandatory directive would clearly be distracting to a person who was attempting to operate a train simultaneously, which explains why it is strictly prohibited. Certainly, a one-person train crew could stop a train to receive a mandatory directive by radio, but there is a question whether railroads have thought through all the safety implications of stopping the train. The train may be going at a high enough speed that it would take over a mile to stop the train, or the train might be in a territory where a steep grade or other physical conditions make stopping the train logistically difficult. One would hope that the mandatory directive would not impact the train operation immediately before the one-person crew

could safely stop the train to receive the transmission.

The different ways a multiple person crew can handle a radio communication failure also is indicative of how an FRA regulation was written with the expectation that there would be more than one train crewmember. Under most circumstances, FRA's railroad communication regulation requires a train to have a working radio in each occupied controlling locomotive, and in a second locomotive for purposes of ''communication redundancy.'' 49 CFR 220.9. If the controlling locomotive's radio fails en route, the crewmembers have the back-up radio in the second locomotive to use to avoid a radio blackout.

Trains with multiple crewmembers have an option not available to one-person crews. In cases of radio malfunction, it may be necessary to have a crewmember located in the second locomotive to monitor the dispatcher's communications as long as the crewmembers can otherwise communicate while the train is moving. However, if the train was a one-person operation, the lone crewmember would certainly not be able to operate from a locomotive not on the leading end, so the one-person crew would have to either try and swap out the locomotives so that the one on the leading end had a working radio to communicate with the dispatcher, or the one-person crew would need to find a way to notify the dispatcher as soon as practicable that radio communication has been lost. 49 CFR 220.38. With a multiple person operation, swapping the locomotives would likely involve a crewmember getting off the train and lining switches. Swapping the locomotives could be logistically difficult for a one-person crew depending on the track configurations encountered and the method of operation. Although a one-person crew could operate the train without a working radio to the nearest forward point where the radio can be repaired or replaced, doing so is not as safe an option as utilizing the redundant communication in the second locomotive with a working radio—an option more likely to be utilized with a multiple-person train crew.

6. Adding a Potential Safety Hazard to Highway-Rail Grade Crossing Activation Failures

The general public is directly impacted when a highway-rail grade crossing fails to activate because that means motor vehicle traffic would not receive any warning of an approaching train. Protecting the public is paramount to train operation, and FRA requires that a train can only proceed through the crossing when other steps are taken to protect highway users from approaching trains. 49 CFR 234.105. If a railroad has enough time to arrange for an equipped flagger or a uniformed law enforcement officer to be at the crossing, then the train may proceed through the crossing without stopping, albeit at potentially a slower than normal speed depending on the number of flaggers/officers. However, if a railroad does not have enough time to make other arrangements, the only other method that will allow the train to proceed through the crossing is if the train stops prior to entering the crossing in order to permit a crewmember to dismount to flag highway traffic to a stop. The flagging crewmember is not allowed to reboard the train until the locomotive has completed its procession through the crossing. Hence, under FRA's regulations, a one-person crew could not stop and flag the crossing without a non-crewmember flagger or a uniformed law enforcement officer's assistance.

Certainly, a railroad's on-time efficiency would be negatively impacted by the activation failure because a train with a one-person crew would have no choice but to wait until a flagger or officer arrived before proceeding through the crossing. Depending on the circumstances, the general public might also be negatively impacted. For example, if the train was forced to stop in a highly populated area, nearby citizens and businesses might be inconvenienced by the locomotive engine noise or exhaust fumes. Another concern is whether the train stopped clear of all other crossings. Highway users and local emergency responders may be significantly inconvenienced if the railroad and one-person train crew were unable to plan a safe place to stop the train without blocking other grade crossings. Planning a safe place to stop the train is typically considered a conductor's job, but with only one crewmember the one-person crew has no one else to help. Motor vehicle drivers or local emergency responders would not be given any advance warning of the blocked crossing or any information regarding when the crossing would no longer be blocked. Such poor planning can infuriate motor vehicle drivers and lead these drivers to take risks not to get caught waiting for a train the next time they see a grade crossing warning system begin to activate. In some cases, such poor planning could compromise the ability of local emergency services to respond. Thus, there is the potential for immediate and future repercussions when there is only a one-person train crew and no ability to quickly flag the crossing.

E. Defining the Crewmembers' Qualifications

In this proposed rule, FRA chose not to define the duties of the two mandatory crewmembers. FRA previously fulfilled its statutory obligations to promulgate regulations requiring certain minimum standards for locomotive engineers and conductors. 49 U.S.C. 20135 and 20163 and 49 CFR parts 240 and 242. FRA believes that each locomotive or train must have a crew that can perform all of the duties described by the qualifications requirements in the certification regulations for these two operating crewmembers. This can be accomplished with the assistance of technology and sometimes with the assistance of one or more other safety-related railroad employees who are not recognized by the railroad as the train's conductor. In this background, FRA will reiterate the regulatory requirements, focusing on the existing limitations and acknowledging FRA's policy. This issue is raised because FRA may consider adding requirements in the final rule specifying minimum requirements for a second crewmember's qualifications, in the event that person is not a qualified conductor. There is a question of whether the rule might need to define the duties of a freight train second crewmember who is not a conductor differently from the duties of a passenger train second crewmember.

Nearly every movement of a locomotive, whether or not the locomotive is coupled to other rolling equipment, requires that the operation be performed by a certified locomotive engineer. 49 CFR 240.7 (defining ''locomotive engineer'' and allowing exceptions for movements of locomotives: (1) Within a locomotive repair or servicing area and (2) of less than 100 feet for inspection or maintenance purposes). Until technology is developed that might allow for the safe operation of locomotives or trains completely by computer automation, a person is needed to operate the locomotive or train, and that person is required to be certified pursuant to FRA's locomotive engineer regulation. The issue of whether a one-person crew can operate safely is mainly an expansion of the role of a locomotive engineer to include some or all of the duties of a conductor, sometimes with the assistance of technology and sometimes with the assistance of one or more other safety-related railroad employees who are not

recognized by the railroad as the train's conductor.

In the conductor certification final rulemaking, FRA recognized that there may be circumstances where a person is ''serving as both the conductor and the engineer.'' 76 FR 69802, 69809, Nov. 9, 2011 (explaining that a person may hold both a locomotive engineer certification and a conductor certification, and establishing rules for when revocation of each certification is appropriate under 49 CFR 242.213). In doing so, FRA recognized the realities of remotely controlled locomotive and train operations which often involve yard or yard-type operations, travel to and from yards, or travel to service customers, without a second crewmember being present. *See* 49 CFR 242.213(d). Similarly, FRA permits a certified conductor attached to a train crew in a manner similar to that of an independent assignment when a certified conductor is not accompanying a locomotive engineer or the engineer is not dual conductor/engineer certified. However, FRA expressly noted in the NPRM that the ''conductor certification regulation, including section 242.213, be neutral on the crew consist issue [and that] [n]othing in . . . part 242 should be read as FRA's endorsement of any particular crew consist arrangement.'' 76 FR 69166, 69179, Nov. 10, 2010. This disclaimer was made to facilitate industry-wide discussion on the conductor certification rulemaking and foster a potential consensus recommendation from FRA's Federal advisory committee, without the conductor rule becoming a referendum on the issue of crew size. Thus, although portions of the conductor rule could be read to suggest FRA acceptance of a variety of one-person crew operations, FRA's explicit disclaimer shows that the agency did not intend for the conductor rule to be that sort of proclamation.

FRA's foremost concern is that a passenger railroad will have one person in the crew who is dual certified as both a locomotive engineer and a conductor, but a second person may be lacking many of the relevant qualifications normally associated with a passenger conductor. If a second passenger train crewmember lacks too many of the qualifications of a conductor, the second person may not be truly helpful in emergency situations or even routine rail operations. The potential for creating foreseen and unforeseen problems with using a second passenger crewmember who is not conductor qualified is disconcerting. For these reasons, FRA encourages interested parties to comment on whether FRA should address this issue in the final rule. For example, FRA suggests that a second passenger crewmember who is not a conductor should be qualified on: (1) The signals to be encountered, including the name and possible indications; (2) the physical characteristics of the territory to be operated over; (3) flagging; (4) railroad operating rules (49 CFR part 218); (5) railroad radio and communications rules (49 CFR part 220); (6) passenger equipment safety standards (49 CFR part 238); and, (7) passenger train emergency preparedness (49 CFR part 239). Currently, FRA has enforced a safe course through the approval process requirement in the passenger train emergency preparedness rule. 49 CFR 239.201. Although FRA may continue to use the emergency preparedness approval process in this manner, the passenger railroad industry or public might benefit from a clear set of requirements for the qualification of a second train crewmember.

FRA has similar concerns about a second freight train crewmember who is not a certified conductor. A railroad might employ a brakeman or other operating crewmember who lacks the versatility of a conductor, which could raise questions regarding the safety of such a two-person operation. Similar operational questions could arise with the use of a person who is more like a utility employee (*see* 49 CFR 218.22) than a crewmember who is assigned to a train. There are certainly some duties that a utility employee can perform for a train crew that would typically be classified as the responsibility of a freight conductor. However, because the utility employee is neither in the locomotive cab with the locomotive engineer or in near constant radio communication with the locomotive engineer while the train is moving, the utility employee cannot be deemed a replacement for all of the conductor's duties and benefits. In order to address safety concerns with the use of a second crewmember who is not a certified conductor, FRA seeks comments on whether the final rule should identify specific minimum qualifications for freight train crewmembers that lack all of the qualifications of a conductor. Minimum requirements for a second freight train crewmember who is not a certified conductor might include: (1) Knowledge of railroad rules and safety instructions; (2) railroad operating rules particular to handling equipment, switches, and fixed derails (49 CFR part 218, subpart F); (3) railroad radio and communications rules (49 CFR part 220); and, (4) brake system safety for freight trains and equipment, including end-of-train devices (49 CFR part 232).

FRA requests public comment on how railroad operations can and do safely and efficiently comply with these regulations with one-person crews or autonomous trains. Are there particular operational contexts in which compliance using one-person crews is particularly difficult or poses greater safety risks? What risk mitigating measures will railroads use to safely and efficiently comply with these regulations using one-person crews? Should any of these regulations be revised to allow one-person crews to operate safely and efficiently?

III. RSAC Overview

In March 1996, FRA established the Railroad Safety Advisory Committee (RSAC), which provides a forum for collaborative rulemaking and program development. RSAC includes representatives from all of the agency's major stakeholder groups, including railroads, labor organizations, suppliers and manufacturers, and other interested parties. A list of RSAC members follows:

American Association of Private Railroad Car Owners (AARPCO);
American Association of State Highway & Transportation Officials (AASHTO);
American Chemistry Council;
American Petroleum Institute;
American Public Transportation Association (APTA);
American Short Line and Regional Railroad Association (ASLRRA);
American Train Dispatchers Association (ATDA);
Association of American Railroads (AAR);
Association of State Rail Safety Managers (ASRSM);
Association of Tourist Railroads and Railway Museums (ATRRM);
Brotherhood of Locomotive Engineers and Trainmen (BLET);
Brotherhood of Maintenance of Way Employes Division (BMWED);
Brotherhood of Railroad Signalmen (BRS);
Chlorine Institute;
Federal Transit Administration (FTA); *
Fertilizer Institute;
Institute of Makers of Explosives;
International Association of Machinists and Aerospace Workers;
International Brotherhood of Electrical Workers (IBEW);
Labor Council for Latin American Advancement (LCLAA); *
League of Railway Industry Women; *
National Association of Railroad Passengers (NARP);
National Association of Railway Business Women; *
National Conference of Firemen & Oilers;
National Railroad Construction and Maintenance Association (NRC);
National Railroad Passenger Corporation (Amtrak);

National Transportation Safety Board (NTSB); *
Railway Passenger Car Alliance (RPCA)
Railway Supply Institute (RSI);
Safe Travel America (STA);
Secretaria de Comunicaciones y Transporte; *
SMART Transportation Division (SMART TD)
Transport Canada; *
Transport Workers Union of America (TWU);
Transportation Communications International Union/Brotherhood of Railway Carmen (TCIU/BRC);
Transportation Security Administration (TSA).

* Indicates associate, non-voting membership.

When appropriate, FRA assigns a task to RSAC, and after consideration and debate, RSAC may accept or reject the task. If accepted, RSAC establishes a working group that possesses the appropriate expertise and representation of interests to develop recommendations to FRA for action on the task. These recommendations are developed by consensus. The working group may establish one or more task forces or other subgroups to develop facts and options on a particular aspect of a given task. The task force, or other subgroup, reports to the working group. If a working group comes to consensus on recommendations for action, the package is presented to RSAC for a vote. If the proposal is accepted by a simple majority of RSAC, the proposal is formally recommended to FRA. FRA then determines what action to take on the recommendation. Because FRA staff play an active role at the working group level in discussing the issues and options and in drafting the language of the consensus proposal, and because the RSAC recommendation constitutes the consensus of some of the industry's leading experts on a given subject, FRA is often favorably inclined toward the RSAC recommendation. However, FRA is in no way bound to follow the recommendation and the agency exercises its independent judgment on whether the recommended rule achieves the agency's regulatory goals, is soundly supported, and is in accordance with applicable policy and legal requirements. Often, FRA varies in some respects from the RSAC recommendation in developing the actual regulatory proposal or final rule. Any such variations would be noted and explained in the rulemaking document issued by FRA. If the working group or RSAC is unable to reach consensus on recommendations for action, FRA resolves the issue(s) through traditional rulemaking proceedings or other action.

IV. No Recommendation From the RSAC Working Group

On August 29, 2013, the RSAC accepted a task (No. 13–05) entitled ''Appropriate Train Crew Size.'' The statement clarified that ''[i]n light of the recent Canadian train incident and the subsequent emergency directive issued by Transport Canada, FRA believes it is appropriate to review whether train crew staffing practices affect railroad safety.'' FRA identified four purposes of this task, which were all variations on requests for RSAC to evaluate whether and how crew redundancy affects railroad safety and when crew redundancy should be deemed necessary. Crew redundancy is the idea that a second crewmember can confirm for the locomotive engineer important information thereby providing a second layer of assurance that the train is being operated in accordance with all applicable rules, procedures, practices, restrictions, and signal indications. However, the second crewmember's responsibilities are not just passive in a confirming way. The second crewmember can provide redundancy by taking the lead on tasks that free the locomotive engineer to focus on the engineer's core role of train handling.

The task statement specified that RSAC was expected to look at a list of FRA rail safety regulations to evaluate whether and how crew size impacts rail safety. The statement also asked RSAC to review published studies and reports, as appropriate. FRA provided the five FRA-sponsored studies, as well as the one TRB conference report, each of which were described previously in this preamble. In reviewing these materials, FRA was hoping that RSAC would be able to address the following issues in its recommendations report:

- Report on whether there is a safety benefit or detriment from crew redundancy, including an analysis of observed safety data and outcomes from current crew deployment practices.
- Review existing regulations and consider the impact of crew size on the performance of any task or activity.
- Report on the costs and benefits associated with crew redundancy.
- If appropriate, develop recommended regulatory language or guidance documents regarding crew size requirements that enhance the safety of railroad operations by providing enhanced regulatory redundancy. In considering the development of regulatory language, specifically consider the value of regulatory redundancy in terms of crew size as it relates to trains or vehicles identified by the group responsible for Task Number 13–02 (*i.e.,* an RSAC task to identify types and quantities of hazardous materials for special handling as a result of reviewing the Lac-Mégantic accident) as requiring special handling and/or operational controls, and if appropriate develop recommended regulatory language specific to these railroad operations.

Furthermore, in order to accommodate some RSAC members, RSAC agreed to consider other issues that have some arguable connection to the crew size issue. These other issues were to consider (1) the appropriate role and impact of technological advances on crew size and crew deployment and incorporate these into any recommendation developed, (2) PTC and Remote Control Operations or other operations where crew deployment practices or the use of technology may enhance the safety of operations, and (3) the application of a System Safety Program to these issues.

In addition to FRA, the following organizations contributed members:

APTA, including members Capital Metropolitan Transportation Authority (CMTA), Keolis North America, Long Island Rail Road (LIRR), Massachusetts Bay Commuter Railroad Company (MBCR), Metro-North Railroad (MNCW), North County Transit District (NCTD), Regional Transportation District (RTD), and San Joaquin Regional Rail Commission;

- ASLRRA, including members from Central California Traction Company (CCT), Farmrail System (FMRC), Genesee & Wyoming Inc. (GNWR), Indiana Rail Road Company (INRD), OmniTRAX, Pinsly Railroad Company, and WATCO Companies, Inc. (WATCO);
- ASRSM, including members from the California Public Utilities Commission (CPUC);
- ATDA;
- ATRRM
- BLET;
- BMWED;
- BRS;
- NRC, including members from Herzog Transit Services (Herzog);
- SMART TD;
- TCIU/BRC; and
- TWU.

The Working Group convened five times on the following dates in Washington, DC. Minutes of each of these meetings are part of the docket in this proceeding and are available for public inspection.

- October 29, 2013
- December 18, 2013
- January 29, 2014
- March 5, 2014
- March 31, 2014

As the Working Group meeting notes in the docket reflect, FRA started the first meeting by providing an overview

of FRA's position on the crew size issue. Although FRA always enters any RSAC discussion with an agency position on the issue being discussed, FRA was quicker than in previous RSAC discussions to reveal its broad-based positions. Typically, FRA will start the first meeting with a free-form discussion of the topic, allowing the RSAC Working Group's members to brainstorm problems and a range of acceptable solutions. The typical approach works well when FRA is unsure of whether a regulation is necessary, there already is an informal consensus that action needs to be taken, or the Working Group knows FRA will regulate the issue because there is a statute mandating promulgation of a regulation. None of these scenarios were present with the crew size issue. For these reasons, FRA believed it needed to approach this RSAC differently by defining its broad position on appropriate train crew size at the beginning of the first meeting.

During that first RSAC Working Group meeting, FRA presented some background on the crew size issue. FRA acknowledged that it had not previously felt the need to talk about crew size until recently for several reasons. Historically, crew size has been an issue for labor relations, and technology has enabled a gradual reduction in the number of train crewmembers from about five in the 1960s to two in 2014. Four major technological breakthroughs were mentioned in FRA's presentation that led to the historic train crew size reductions: (1) The phase out of steam locomotives allowed locomotives to be operated without crew known as fireman dedicated to keeping the engine fed with coal, (2) the introduction of portable radios made it easier to transmit information from a crewmember at the far end of the train to the leading end, (3) the end-of-train device replaced the need for one or more crewmembers to be at the rear of a train on a caboose to monitor brake pipe pressure, and (4) the development of improved train control devices helped automate safer operations in case of human error. Furthermore, FRA raised another significant technological innovation that has become widespread over the last 20 years; that is, remotely controlled locomotive operations utilizing only a one-person crew for switching service have become commonplace.

FRA told the Working Group that the agency's position on appropriate crew size is that: (1) Railroad safety is enhanced through the use of multiple crewmembers, (2) it is difficult to comply with current safety regulations and operating rules when operating with a one-person crew, (3) FRA's safety regulations were written with at least a two-person crew in mind and that operating with a one-person crew may, in some cases, compromise railroad and public safety, and (4) a second crewmember provides safety redundancy and provides a method of checks and balances on train operations. For all these reasons, FRA took the position that it needs to have some oversight of train crew size so that it can protect railroad employees and the general public.

FRA then explained its broad position on establishing train crew size requirements, explaining that the agency wanted the Working Group to make recommendations that would establish safe practices for both two-person train operations and those with less than two-persons. For instance, FRA took the negotiating position that the Working Group should develop a recommendation with a baseline of a minimum two-person crew for freight and passenger trains. The Working Group was told that FRA wanted to hear about current one-person crew operations that have been safely conducted so that those exceptions to a two-person standard could be carved out in the RSAC's recommendations. FRA also expressed an interest in offering to provide for a special approval process in a crew size regulation that would allow FRA to quickly and efficiently provide review and approval of any train crew arrangement that could not meet any easy to define specific exclusions. In order to ensure reasonable oversight, FRA suggested that a special approval would be granted based on whether the railroad's petition demonstrated an appropriate level of safety based on a combination of safeguards offered by shoring up operating procedures and implementing proven technologies. FRA noted that this was a generous compromise position, as FRA was not taking an absolute position that all trains must be operated with a two-person crew because it has the expertise to recognize accepted safe practices.

FRA's broadly stated negotiating position at the Working Group meetings was also constructed based on feedback recently received from two railroad associations participating as RSAC members. In response to Emergency Order 28, which was issued after the Lac-Mégantic accident, AAR reported to FRA that ''Class I railroads currently use two-person crews for over-the-road mainline operations.'' [3] AAR was certainly looking to assure FRA that the major railroads were not conducting one-person trains transporting the types and quantities of hazardous materials specified in appendix A of Emergency Order 28. ASLRRA could not be specific about each of its members' policies on transporting hazardous materials with one-person crews. However, ASLRRA tried to assure FRA that its members had ''carefully consider[ed] the appropriate train and engine crew assignments to assure the highest degree of safety for the movements they operate.'' [4] Taking the AAR and ASLRRA's comments at face value, FRA did not believe the agency's initial negotiating position differed greatly from the status quo. That is, the major railroads were already using two-person train crews for over-the-road mainline operations and the shortlines were carefully considering safety, presumably through a safety analysis of each operation prior to implementation—or so that was intimated.

Despite the AAR and ASLRRA's publicly stated positions on crew size, it was clear from the first meeting that the members of these associations were opposed to RSAC making any recommendation that provided FRA with oversight on crew size issues. AAR stated at that first meeting that there is no safety justification for FRA to address train crew size. ASLRRA took the position that because there have been very few, if any, accidents involving a one-person crew, and management has been very responsible regarding crew size, that FRA should not dictate safety regulations on the subject. FRA interpreted that unwillingness as an indication that the industry does not intend to maintain the status quo. Thus, FRA believes it cannot rely on the assurances made in the associations' written pronouncements.

As more Working Group meetings were held, FRA became increasingly concerned about the extent of one-person train operations in the U.S. and the extent that these operations may have proliferated without FRA oversight of them. Based on discussions with the railroad members of the Working Group, there appears to be a trend that more railroads of every class are willing to experiment with one-person train crew operations. Members representing Labor

[3] Letter from Mr. Edward R. Hamberger, President and CEO of AAR, to Mr. Joseph C. Szabo, FRA Administrator (Oct. 16, 2013), which has been placed in the docket to this rulemaking.

[4] Letter from Mr. Richard F. Timmons, President of ASLRRA, to Mr. Joseph C. Szabo, FRA Administrator (Oct. 17, 2013), which has been placed in the docket to this rulemaking.

organizations seemed as surprised as FRA with some of the generalized statements made by a variety of railroads regarding the extent of the existing one-person operations. For example, railroads of all classes seemingly have permitted remote control operations with only one-person to routinely operate on main track in limited train service, as opposed to being used for switching service—the original expected use for which the technology was designed. AAR and ASLRRA were unwilling to recommend FRA oversight of their members to assure railroad employees and the general public that their members' existing operations are safe, proclaiming that the lack of safety data showing there was an existing problem should prevail as an argument.

Without a requirement for railroads to consult FRA on questionable crew size practices, FRA did not field inquiries from railroads asking for the agency's opinion on the safety of the practices. Even if an FRA inspector were to observe a train being operated with only one-person, FRA personnel would not have any reason to write up an inspection report detailing the finding—unless the one-person operation was alleged to have violated an FRA safety law, regulation, or order and the issue was tangentially raised in the report. Certainly, high level safety personnel at FRA were unaware of how many railroads, especially freight railroads, were regularly fielding trains with only a one-person crew. For these reasons, the Working Group's discussions of existing one-person train crew operations were illuminating.

Just as railroads have explained for over a century that certain operating rules were ''written in blood'' because it took one or more accidents causing serious injuries or fatalities before the operating rule was written, railroad employees and the general public should not have to wait for horrific accidents before the Federal government takes action. FRA provided the Working Group with a number of significant reasons for recommending regulatory action. In summary, FRA provided: (1) The scientific research studies showing the benefits of a second crewmember, (2) the anecdotal information regarding recent train accidents and how a second crewmember either could have played a safety role or did play such a role, (3) the explanation that FRA's railroad safety regulations were written with the expectation that nearly every train would be operated by no fewer than two crewmembers, and (4) the general public's negative reaction to the idea that FRA did not already mandate two-person train crews to add another layer of safety.

During the Working Group's first meeting, SMART–TD stated its belief that FRA appears to be responding to the public's demand for action. SMART–TD backed up its statement during the Working Group's January 29, 2014, meeting when it shared a research report it sponsored that combined data from five surveys that indicated a strong level of bipartisan support among voters for a Federal law requiring freight trains to operate with a crew of two. The surveys were conducted in the States of Kentucky and North Dakota, and in select Congressional districts in the States of Colorado, Kansas, Iowa, and Pennsylvania. The data supported a finding that 77 percent of all respondents support Federal legislation requiring freight trains to be operated by a crew of two. Even when respondents were not reminded in a prior question about recent deadly train accidents in Quebec, Spain, and New York City, 74 percent supported Federal legislation. Another finding was that an overwhelming majority of those polled (between 83 to 87 percent in each of the five surveys) had the opinion that, generally speaking, when it comes to railroad safety and operations, one operator cannot be as safe as a train with a crew of two individuals. A copy of this report has been placed in the docket.

Despite the early warning signs that the Working Group would not be able to reach a consensus, FRA held 5 day-long meetings spread out over 6 months in which the agency continued to make substantive presentations and negotiate in good faith. Every time APTA or ASLRRA presented a new set of facts for a potential exception, FRA listened and came back with a written recommendation that tried to capture the request for leniency. Twice, AAR provided the Working Group with a list of a variety of railroad operations that it claimed should be allowed to continue with one-person with no restrictions. Each time, FRA responded with a written recommendation that tried to capture the request for leniency or, in a few instances, explained why it could not support such a request. Although no consensus was reached during the Working Group meetings, there seemed to be a tacit understanding that FRA had adequately described each operation for which it included an exception in its working document.

First, at the January 29, 2014 meeting, AAR listed the following examples as non-revenue movements that it suggested should not require a minimum of two crewmembers: ''(1) Helpers; (2) Pushers; (3) Light engines; (4) Passenger moves; (5) Hostlers; (6) Locomotive exchange crews; (7) Work trains; (8) Wreck crews; and (9) Roadway maintenance machines.'' Final Minutes 2014 0129 TCWG–14–03–0503 pdf at 15. During the same meeting, AAR also asked whether FRA would agree to an exception for (10) interchange and transfer moves, (11) mine load out or plant dumping, and (12) toxic by inhalation or poisonous by inhalation (TIH/PIH) hand-offs, where one crewmember remains behind to facilitate secure hand-off, a Transportation Security Administration (TSA) requirement. FRA agreed, and altered its Working Group proposal to include an exception for each of the twelve items with the following caveats: (1) FRA did not believe a special exception was necessary for pushers, as the exception for helpers also covers pushers; (2) FRA provided an exception for light/lite engines, but made clear that the exception did not apply to passenger diesel or electric multiple unit (DMU or EMU) operations; (3) FRA provided an exception for hostlers conducting switching operations, but not hostlers working in other than switching operations; (4) FRA considers a wreck crew to be a work train, and FRA provided an exception for work trains; (5) FRA's work train exception applies to roadway maintenance machines in a work train, but such machines are not otherwise excepted; (6) FRA did not except interchange/transfer train movements as these operations, which may travel up to 20 miles while picking up or delivering freight equipment under the definition of ''transfer train'' in 49 CFR 232.5, pose the same safety issues as other trains that are not limited to traveling 20 miles; and (7) during a TIH/PIH hand-off, FRA did not create an exception that would allow the second crewmember to be left behind with the PIH/TIH car while the train departed with only a one-person crew as the train continuing would pose the same safety issues as other trains.

Second, in anticipation of the final Working Group meeting held on March 31, 2014, AAR submitted a document on March 28, 2014, titled ''Discussion of Current Class I Operations Using Vehicles When Assisting Trains.'' AAR Discussion Document TCWG–14–03–31–04.pdf. The document describes six situations where a second train crewmember would need to be located outside of the operating cab of the controlling locomotive when the train is moving in order to continue to perform the duties assigned, and then lists seven

additional examples. The second train crewmember would then need another way to catch up to the train to get back on it. FRA believes all of the operations described in that AAR document are acceptable, as long as the second train crewmember that is separated from the train can directly communicate with the crewmember in the cab of the controlling locomotive pursuant to proposed 49 CFR 218.125(d). FRA has greatly benefited from the open, informed exchange of information during the meetings. Although the Working Group did not reach consensus on any recommendations, FRA decided not to extend the April 1, 2014, deadline that FRA initially presented the RSAC. FRA did not think it would be beneficial to continue to discuss with the RSAC's railroad members the issue of what data FRA had to support this rulemaking recommendation when they knew full well that the data, supplied by the railroads themselves to FRA, does not capture accidents where the cause or contributing factor was lack of a second crewmember.

It was also made clear to FRA that organizations representing railroad employees supported FRA's overall concept of mandating two-person crews on each train with some exceptions, but were overwhelmingly opposed to FRA's draft rulemaking recommendation that attempted to greatly accommodate all classes of passenger and freight railroads. Several labor organizations wanted FRA to scale back some of the exceptions FRA accepted as part of the agency's attempt to reach a consensus. For example, these organizations wanted to limit the shortline railroad exceptions in 49 CFR 218.131(a) to a freight train operated on a railroad and by an employee of a railroad with 15 or fewer employees, rather than the FRA position of ''a freight train operated on a railroad and by an employee of a railroad with less than 400,000 total employee work hours annually'' (which is the equivalent of about 200 or fewer employees). Labor organizations also expressed a preference for requiring each railroad to petition for a waiver to utilize less than two train crewmembers rather than recommend a special approval procedure that would propose a much shorter FRA review period. Thus, after five meetings, with labor and management representatives taking polar opposite positions on large and small issues, FRA decided not to accept some Working Group members' recommendation to extend the deadline for negotiating a recommendation.

V. FRA's Overall Post-RSAC Approach

This proposed rule offers a pragmatic approach to providing oversight of the crew size of non-switching train services to ensure the continued safety of railroad employees and the general public. In that respect, FRA's approach to the crew size issue has remained the same as when the agency first brought its position to the Working Group's attention. FRA views its crew size concerns as a relatively small current problem that has the potential to balloon into a much greater problem in the not-too-distant future if appropriate oversight is not exercised. Because there is significant potential for this safety issue to become a much greater problem in the second half of this decade, FRA believes the time to act is now.

A. The Proposal Is Largely Focused on Influencing How Railroads Approach Future One-Person Operations

Based on information orally provided by AAR regarding the major railroads current train crew size practices, it appears that the proposed rule would not have a substantial impact on the current operation of the major railroads. Each major railroad appears more concerned about how a crew size regulation would impact the railroad's possible future plans to reduce train crew size to less than the general current industry standard of at least two crewmembers. It appears that the major railroads and some passenger railroads are eager to use PTC alone, or with other technologies, to reduce train crew size to one person. There is also an undercurrent of views that supports the idea that one day the major railroads could have ''drone'' locomotives, operated by one person or even by computer that could allow operation of a locomotive or train from a location that is miles away from the actual train movement. The railroads appear to prefer that FRA does not regulate the safety of train operations by mandating a minimum train crew size and establishing an FRA approval process so they can potentially consider piloting use of less than one-person crews in additional operations. Without this proposed rule, FRA has only narrow authority to take action—mainly exercised through the agency's emergency order authority after a serious accident or in FRA's review of a passenger operation's emergency preparedness plan. FRA's current approach, without a crew size requirement, permits railroads to have the ability to reduce the number of crewmembers on any train operation without necessarily performing any safety analysis or allowing FRA the opportunity to review whether the railroad has considered the safety implications of the operation or implementing any off-setting actions that FRA believes are necessary.

FRA expects that the two-person aspect of the crew size rule would also not have much of an impact on current passenger train operations. It is rare for passenger train operations to have less than a two-person crew, largely because emergency preparedness plans would be ineffectual without at least two persons to execute it. Like the major railroads, some passenger railroads will oppose this proposed rule largely because it restricts a railroad's unilateral ability to reduce train crew size in the event it can automate ticket sales and eliminate the need for assisting passengers. As with the major freight railroads, FRA is concerned that passenger railroads will focus on the economic benefit of not having to pay for a second crewmember without considering all of the safety benefits of having a second crewmember. FRA certainly believes its oversight of passenger train safety is warranted to protect the general public and any railroad employees that potentially could be impacted by the decision to reduce current train crew staffs.

During the Working Group meetings, ASLRRA indicated that the current operations of shortline railroads would be greatly impacted by this rule because of the number of shortlines that utilize a one-person operation. However, survey information provided by ASLRRA does not suggest that a great many shortline railroads would be impacted by the proposed rule. At the January 29, 2014, RSAC Working Group meeting, ASLRRA presented findings from a survey the association conducted via its Regional Vice Presidents in December 2013. ASLRRA Single Person Operations Survey Findings TCWG–14–01–29–05.pdf. ASLRRA estimated that there are approximately 558 Class II and Class III railroads, 29 of 223 respondents (13.0 percent) run one-person crews at least part of the time, there are 13,468 annual one-person crew starts, one-person crews accumulated 481,936 miles of train operations, the longest distance operated by a one-person crew is 119 miles, the shortest distance operated by a one-person crew is 0.33 miles, and the average mileage per crew start is 35.8 miles. Thus, according to ASLRRA's data, only about 13 of every 100 shortlines run any type of one-person operation. Certainly, some of those operations would not be impacted based on the exceptions provided to a two-person crew mandate in the

proposed rule. FRA's analysis for this proposed rule estimates that 16.35 percent of these one-person shortline operations would not meet the proposed exceptions.

Considering that the shortline community's current operations are the most likely to be impacted by this proposed rule, FRA conducted its own internal survey after the RSAC failed to reach a consensus recommendation in an attempt to more closely determine the potential impact on current operations. FRA Crew Size Shortline Survey-Final.pdf. FRA's internal survey was conducted by requesting that the operating practices personnel in each of FRA's eight regional field offices estimate the operational picture regarding shortlines (Class II and III railroads) within their respective regions in order to give FRA a nation-wide view. FRA's internal survey approximated that there are a total of 752 shortlines in the U.S. 206 of the shortlines handle ''key trains'' (*i.e.,* trains with one or more loaded toxic-by-inhalation (TIH) or poisonous-by-inhalation (PIH) cars, or 20 or more loaded rail or tank cars or loaded intermodal portable tanks of certain hazardous materials including crude oil), an estimated minimum of 31,490 key trains are handled by shortlines each year, 115 shortlines operate one or more trains at over 25 mph, 14 shortlines operate with one-person train crews, and an estimated minimum of 127,792 trains operate at over 25 mph on shortlines.

Comparing FRA's survey to ASLRRA's survey, it appears that a big discrepancy is that ASLRRA is aware of more than twice as many shortlines utilizing one-person train operations than FRA, even though ASLRRA received responses from what FRA found to be is less than 30 percent of the population of existing shortlines. Although many of these shortline operations are slow moving and will likely be excepted from the proposed two-person crew requirements in this proposed rule, the full extent of each of these shortline operations is unknown. It is because so much is unknown about the extent of one-person train crew shortline operations, including where they exist, that FRA believes the proposed approval process is necessary in order that the shortlines reveal themselves for some level of Federal safety oversight. Information revealing where and the extent of these one-person train crew operations would also permit FRA to potentially improve data collection and analysis of one-person operations. Otherwise, a shortline railroad's good safety record may be illusory and FRA would not have any reason to exercise oversight until after an attention-getting accident.

B. The Proposal Is Complimentary to Other Regulatory Initiatives, Not Duplicative

This proposed rule is complimentary to, rather than duplicative of, other recent regulatory initiatives FRA has issued or is in the process of developing. These initiatives include: the implementation of PTC systems, the development of risk reduction and system safety programs, the development and implementation of comprehensive training programs for safety critical employees, and the development of fatigue management plans. Each of these initiatives will enhance safety in some manner, and may either aid a railroad in transitioning to an operation with fewer than two crewmembers or assist a railroad in identifying risks and mitigating those risks once such an operation is established. However, none of these initiatives, either individually or collectively, are designed to ensure that a railroad engages in a proactive assessment of a change to an operation such as reducing the size of a train crew from two crewmembers to just one crewmember. The purpose of this regulatory action is to ensure that each railroad properly consider and evaluate the risks that will be introduced to an operation by reducing the existing crew size and that the railroad takes appropriate steps to mitigate those risks prior to implementing the operation. Thus, this proposal is proactive and is aimed at reducing or eliminating risk before it is introduced into actual operations, whereas many of the other regulatory initiatives being put in place are aimed at identifying and mitigating risks that already exist. This approach will ensure that the nation's safety regulator is part of this decision-making process and will ensure that safety and economic costs are not transferred to the communities and public where these operations might take place.

A subset of this issue was raised during the RSAC process that did not lead to a consensus recommendation. Some RSAC members requested that FRA address the application of a railroad safety risk reduction rule to train crew staffing issues during the Working Group deliberations. Section 103(a)(1) of the Rail Safety Improvement Act of 2008 (RSIA) directed FRA to require certain railroads to develop, submit to FRA for review and approval, and implement a railroad safety risk reduction program. *See* 49 U.S.C. 20156. Railroads required to comply with such a rule would include: (1) Class I railroads, (2) railroads with inadequate safety performance, and (3) railroad carriers that provide intercity rail passenger or commuter railroad passenger transportation (passenger railroads). Risk reduction is a comprehensive, system-oriented approach to safety that determines an operation's level of risk by identifying and analyzing applicable hazards and developing strategies to mitigate that risk.

On December 8, 2010, FRA published an Advance Notice of Proposed Rulemaking (ANPRM) that solicited public comment on a potential rulemaking that would require each Class I railroad, each railroad with an inadequate safety record, and each passenger railroad to develop and implement a railroad safety risk reduction program. 75 FR 76346. On September 7, 2012, FRA then proposed requirements for a System Safety Program (SSP) rule that would partially satisfy the RSIA mandate by requiring each passenger railroad to develop and implement an SSP. 77 FR 55372. FRA developed the SSP NPRM with the assistance of the RSAC. As proposed, an SSP would be implemented by a written SSP plan that had been submitted to FRA for review and approval. If the NPRM becomes effective, a passenger railroad's compliance with its SSP would be audited by FRA, and the passenger railroad would also be required to conduct internal assessments of its SSP. FRA is currently developing, also with the assistance of the RSAC, a separate risk reduction rule, referred to as the risk reduction program (RRP), that would implement the RSIA mandate for Class I freight railroads and railroads with inadequate safety performance. Also under development with the RSAC is a related Fatigue Management Plan (FMP) rulemaking that would meet the RSIA mandate as it relates to fatigue management plans.

Railroads do not have unlimited resources available to mitigate all hazards and risks identified by an SSP. The SSP NPRM therefore explains that railroads will be permitted to prioritize mitigating the most severe hazards associated with the greatest amount of risk. If a railroad's SSP does identify crew size as a hazard, mitigating crew size hazards and risks may depend on how the railroad prioritizes them in relation to other identified hazards and risks. Overall, an SSP is not required to mitigate specific hazards and risks, but must promote continuous safety improvement over time. As such, a railroad's decision regarding whether or not to mitigate crew size hazards and

risks might also depend on how effectively that mitigation would promote continuous safety improvement, compared to mitigation of other identified hazards and risks. As proposed in the SSP NPRM, a railroad would be required to periodically review its program to determine whether the SSP goals are being met. As part of this review, a railroad might identify new hazards and risks or re-prioritize hazards and risks that have already been identified. In any case, although a reduction in crew staffing would certainly not be expected as a mitigation measure, a change in crew staffing from two crewmembers to only one crewmember would be a significant change. FRA would expect such a change to generate a full review of the Risk Reduction Program and an update to the related hazard analysis.

Although FRA anticipates that it will succeed in implementing SSP, RRP, and FMP requirements in the foreseeable future, there is no guarantee that any particular railroad will use an SSP, RRP, or FMP to address the crew staffing issue once the FRA's requirements are effective. Railroads may try and address issues that FRA believes could be solved by adding a second crewmember, but instead attempt to address the problems by finding other tangentially related solutions. For example, some railroads may choose to spend resources on technology that the railroad believes offers adequate redundancy rather than keeping a second crewmember. The technology may improve safety but, as FRA-sponsored research summarized earlier in this preamble explains, may create new tasks, methods of operation, and other complications that are not fully accounted for. In other instances, a railroad may tackle fatigue issues with one-person crews by reducing the number of hours that a single person operation can work on any given day or providing for longer rest periods between tours of duty, but without regard to the fact that the lone crewmember is mentally fatigued and could benefit from another person's assistance. Another concern is that SSP, RRP, or FMP will not require railroads to address each and every risk. A railroad could identify two-person train crew staffing as an effective mitigation for certain risks, but nevertheless choose not to immediately address two-person crews because the railroad decides to prioritize other hazards and risks. Thus, as it will be up to each railroad to identify hazards, prioritize risks, and develop mitigation strategies as part of an SSP, RRP, or FMP, problems caused by inadequate staffing or engagement of a second crewmember may linger after an SSP, RRP, or FMP final rule is implemented. Additionally, as discussed previously, the SSP, RRP, and FMP rules will not apply to all railroads, which means that railroads other than Class I railroads, passengers railroads, and railroads with inadequate safety performance will not have to perform risk analyses pursuant to these rules that might identify crew size as a hazard presenting certain risks.

In conclusion, the future hazards posed by inadequate train crew staffing are common across the general railroad system of transportation and should not be left to be mitigated piecemeal, dependent on a railroad choosing to implement such a mitigation measure. FRA has prioritized the risks posed by some one-person train operations over other potential hazards that a railroad may choose to address through a risk reduction-type program. This proposed rule is necessary for FRA to protect railroad employees and the general public by considering the safety risks of each type of one-person train crew operation and prohibiting operations that pose an unacceptable level of risk as compared to operations utilizing a two-person crew. Only specific crew staffing requirements would resolve this dilemma.

Furthermore, this proposal would not impede the implementation of these other regulatory initiatives. As noted above, the objectives of this regulatory proposal are quite different than other recent regulatory initiatives being advanced by FRA. This proposal is aimed at identifying and mitigating risks before they occur and to ensure that FRA has an active role in ensuring that a railroad has taken appropriate action before modifying an existing operation that has the potential of introducing risk into that operation. This proposed rule will in no way impede or prevent a railroad from implementing the other regulatory initiatives being advanced by FRA and will actually encourage the implementation and application of those initiatives in order to ensure and monitor the continued safety of train operations where less than two person crews are utilized. The other initiatives will ensure that base-level technology is in place when it is installed, that appropriate training is provided to any locomotive engineer operating as a one-person train crew, and that the risks associated with such one-person train crew operations are monitored and evaluated on an on-going basis. Thus, FRA views all of its recent significant regulatory safety initiatives as being complimentary and necessary to this current proposal.

C. Identifying How the NPRM Differs From FRA's RSAC Suggested Recommendations

Some of the proposed rule text differs from the last version FRA proposed as recommendations to the Working Group that failed to reach consensus on any recommendations. Some of these differences will be familiar to the Working Group members because the differences reflect rule text versions FRA proposed during earlier Working Group meetings. Other proposed rule text changes reflect FRA concerns identified since the Working Group meetings were concluded.

In proposed section 218.121, the purpose and scope section, FRA added to the third sentence in paragraph (b) the words ''and promotes safe and effective teamwork.'' Upon drafting the NPRM, FRA realized that the issue of the roles and responsibilities of the second crewmember, as well as the ability of the second crewmember to communicate with the locomotive engineer, was a key factor in how this proposed rule would make train operations safe. The issue deserves mention in the purpose and scope and will hopefully aid each railroad in considering whether its train crewmembers are adequately trained in working as an effective team.

In proposed section 218.123, FRA made a few minor changes to the definitions from its RSAC suggestions. The definitions of ''Associate Administrator'' and ''FTA'' were not changed, but moved to the definitions section that applies to all of part 218. A definition of ''trailing tons'' was added because that term was used to help define the work train exception in 218.127(d). Also, FRA changed the term ''switching operation'' to ''switching service'' for consistency so that the same term is used in this proposed rule as is used in three other Federal rail safety regulations. 49 CFR 229.5, 232.5, and 238.5.

In proposed section 218.125(c), FRA made slight modifications to the language describing the types of hazardous materials a train may transport that would require the train to be staffed with at least two crewmembers without an exception being applicable. The changes to this paragraph closely follow FRA's proposed rule regarding the securement of unattended equipment. 79 FR 53356, 53383, Sep. 9, 2014, proposed 49 CFR 232.103(n)(6). The changes are intended to clarify the types and quantities of materials requiring at least a two-person train crew, unless the railroad receives

special approval to operate such trains under proposed section 218.135.

In proposed section 218.125(d)(2), FRA added the word ''directly'' so that it is clear that a second crewmember not in the operating cab of the controlling locomotive when the train is moving must be able to communicate with the crewmember in the cab without having to go through an intermediary. A corresponding change has been made to proposed section 218.131(a)(2)(ii) for the same reason.

In proposed section 218.127(e), FRA had at one time suggested to the Working Group that remote control operations with a one-person train crew should be specifically limited operationally by restrictions that the railroad industry had previously agreed with FRA to abide by as guidelines. Those guidelines were specified in an earlier draft of FRA's suggested recommendations to the Working Group, but then later removed in a late push to try and negotiate a consensus recommendation. Now that RSAC has failed to reach a consensus, FRA has added these remote control operational restrictions back in because the agency is concerned with railroads trying to use remotely controlled locomotives beyond the equipment's designed limitations. FRA would appreciate comments regarding whether this language limiting remote control operations is necessary.

In proposed section 218.133, FRA has deviated from its RSAC suggested draft by putting forth two co-proposal options with some different requirements. The co-proposals do more than just extend the date by 1 year for continuing operations, from 2014 to 2015. For example, Option 1 co-proposes requiring FRA's explicit approval to continue any operations staffed without a two-person train crew and existing prior to January 1, 2015. In order to encourage railroads to reach a consensus Working Group recommendation, FRA had suggested that it would only issue notification if it disapproved of a railroad's one-person operation or thought that the operation could continue but with some additional restrictions. The change under proposed Option 1 puts a greater burden on FRA to do a thorough review of each one-person operation that railroads will want to continue and to normally provide notification within 90 days of receipt of the submission. However, it also provides clarity to each railroad wishing to continue an operation and not having to wonder whether FRA will announce that the operation is unsafe, without provocation, in the future. Co-proposal Option 2 is closer to the RSAC-suggested draft in this regard.

In both co-proposal options for section 218.133, FRA added a new paragraph, (a)(9), compared to the RSAC suggested draft. The proposed paragraph in the co-proposal options requires that a railroad that wishes to continue any operations staffed without a two-person train crew and existing prior to January 1, 2015, must include certain additional information. Proposed paragraph (a)(9) requires that the railroad provide ''[i]nformation regarding other operations that travel on the same track as the one-person train operation or that travel on an adjacent track. Such information shall include, but is not limited to, the volume of traffic and the types of opposing moves (*i.e.,* either passenger or freight trains hauling hazardous materials).'' FRA believes this information is readily available to host railroads, and estimates the time burden per railroad for providing this information will be 960 hours. FRA requests comments on this estimate. The previously numbered paragraphs (a)(9) and (a)(10) were renumbered as (a)(10) and (a)(11).

In proposed section 218.135, FRA has deviated from its RSAC suggested draft by putting forth two co-proposal options with some different requirements. FRA deleted some information in the version FRA suggested to the Working Group that would have been contained in paragraph (b)(2). Some Working Group members insisted that FRA contain an explicit exception from the two-person requirement whenever a railroad had implemented a PTC system. Although FRA and other Working Group members disagreed with such an explicit exception, FRA attempted to provide as much guidance as it believed was possible in FRA's suggested recommendation if it helped achieve a consensus RSAC recommendation. The language FRA suggested to the Working Group included a statement that ''FRA would likely grant a petition for special approval of a freight train operation with a one-person crew that has a positive train control system'' with certain capabilities. FRA believes, as a starting point for potential FRA-approval, the PTC system must meet all the requirements of part 236 of this chapter, have rear-end train monitoring and enforcement capabilities, and have some other combination of technologies and other operating safeguards. Other safeguards that would likely be considered include: Electronically controlled pneumatic brakes; appropriate installation of wayside detectors, especially hot box, overheated wheel, dragging equipment, and wheel impact load detectors; enhanced scheduled track inspections with track inspection vehicles capable of detecting track geometry and rail flaws; implementation of a fatigue management system with set work schedules; or procedures for providing a one-person train operation with additional persons when necessary for en route switching, crossing protection, or any required train-related inspection. As the Working Group members who wanted the PTC exception provision found FRA's suggestion insufficient, and FRA finds the PTC exception provision unnecessary, there appears to be no reason to carry it forward in this proposed rule. The other changes from the RSAC suggested draft in the co-proposal options raise the question of whether a railroad should be required to wait for explicit FRA approval before initiating a new operation with less than two train crewmembers. The co-proposal options differ on the need for explicit FRA approval. Option 2 also contains an additional proposed requirement that the RSAC never discussed. That proposed requirement is that the railroad officer in charge of operations attest that a hazard analysis of the operation has been conducted and that the operation provides an appropriate level of safety.

D. Electronic Submission and Approval Process

If this proposed rule becomes final, non-exempt railroads that want to operate with less than a minimum of two crewmembers will need to submit information to FRA. The proposed rule provides an address for mailing such submissions to the Associate Administrator, and an electronic submission option. FRA plans to consider adding an electronic submission requirement in the final rule and would like to invite comments on this subject.

FRA has recently created electronic submission requirements to facilitate review of filings in other rulemakings. For example, under 49 CFR 272.105, FRA is requiring each railroad to file critical incident stress plans electronically through a Web site that FRA created. For the Training, Qualification, and Oversight for Safety-Related Railroad Employees final rule, FRA created a mandatory electronic submission process to allow the agency to more efficiently track and review programs with the caveat that an employer with less than 400,000 total employee work hours annually could opt to mail written materials rather than an electronic submission. *See* 49 CFR

243.113. 79 FR 66460, 66506, Nov. 7, 2014.

Another electronic submission option would be for FRA to utilize the already existing docketing system available at *www.regulations.gov.* For example, FRA could create one docket for all requests to continue existing operations under proposed § 218.133 and a second docket for all special approval petitions and comments under proposed § 218.135. Again, as the regulated community and the public have experienced using this docketing system, FRA appreciates any feedback on the use of the existing electronic docketing system and whether it could work well for these purposes.

Certainly, FRA is not restricted from sending written approval electronically. FRA may choose to reply to submissions that include an email address with an electronically served notice. In all instances of electronic submission or notices of approval/disapproval, the party serving notice has the burden of ensuring that proper service is completed.

VI. Section-by-Section Analysis

Section 218.5 Definitions

The NPRM proposes to add two definitions that will be applicable to all of part 218, not just the proposed subpart G. The two terms are only used in the proposed subpart G, and thus they do not pose any potential conflict in the other current subparts. FRA has decided to include these proposed definitions in this section because these terms are unlikely to ever have any other definition that would potentially conflict with another, future, proposed subpart to this part.

The proposed rule needs to define the term ''Associate Administrator'' so that it will be understood which FRA official would need to be served with a copy of certain documents required to be filed under other sections of the NPRM. A proposed definition of ''FTA'' should come as no surprise to those railroads that come under the Federal Transit Administration's jurisdiction and would be expecting FRA to recognize FTA's authority to regulate certain types of operations.

Section 218.121 Purpose and Scope

This section states that the purpose of this proposed subpart is to ensure that each train is adequately staffed and has appropriate safeguards in place when using fewer than two-person crews for safe train operations. In order to ensure adequate staffing, the NPRM prescribes minimum requirements for the size of different train crew staffs depending on the type of operation. Currently, railroads are determining that many train operations can be safely staffed with less crewmembers than the industry standard of two: A locomotive engineer and a conductor. Although FRA employs approximately 400 inspectors who regularly monitor compliance with every class of railroad in the Nation, only about 1 out of every 5 of FRA's inspectors monitor operational compliance while the rest focus on equipment, track, signal, and grade crossing warning device maintenance and the transportation of hazardous materials. There is currently no specific prohibition that would prevent a railroad from choosing to operate a train with only one crewmember and, while FRA has emergency order authority to shut down unsafe operations, FRA would likely have difficulty implementing its emergency order statutory authority in situations where the railroad alleges it has been operating safely for years—unbeknownst to FRA, unless it had evidence that the railroad's operation created an unsafe condition or practice causing ''an emergency situation involving a hazard of death, personal injury, or significant harm to the environment.'' 49 U.S.C. 20104. Although it has done so indirectly, FRA has rejected some one-person passenger operations based on the passenger train emergency preparedness approval process required under 49 CFR 239.201. This proposed rule would provide passenger railroads that are considering one-person operations with additional insight into the safety considerations FRA deems essential before the agency would approve such an operation.

Although railroading continues to trend as safer each year, FRA is concerned that some railroads are removing a second crewmember without reflecting on the safety risks posed to railroad employees and the general public by having one less crewmember staffing each train. The second crewmember may prevent a lone crewmember from suffering from task overload by monitoring and warning of temporary restrictions, acknowledging signal indications, communicating on the radio, protecting the public at highway-rail grade crossings, and updating the train consist list or other required paperwork. Operations could also pose a higher risk to employees and the general public due to the types of commodities hauled, the speed or tonnage of the train, or other complexities of the operation. The decision to propose a requirement for a minimum number of crewmembers on certain types of operations is intended to ensure that each railroad implementing one-person operations has adequately identified potential safety risks and taken mitigation measures to reduce the chances of accidents, as well as the impact of any accident that may still occur.

This subpart also prescribes minimum requirements for the roles and responsibilities of train crewmembers on a moving train, and promotes safe and effective teamwork. The public perception may be that there are always at least two crewmembers, and that the crewmembers are always in the locomotive when the train is moving. The proposed rule recognizes the realities of safe railroading practices while prohibiting railroads from allowing the second crewmember to disengage, mentally or physically, from the train movement. As the FRA-sponsored research in the preamble found, just because multiple crewmembers are present on the train does not mean that they have formed an expert team. The proposed requirements in this subpart would ensure that a second crewmember who is located anywhere outside the cab of the controlling locomotive while the train is moving must have the ability to directly communicate with the crewmember operating the train. Having direct communication lines means that the crewmembers do not have to work through an intermediary, such as the dispatcher, to communicate with one another. Typically, direct communication will mean that the crewmembers are communicating by radio or hand signals.

Finally, proposed paragraph (b) of this section would expressly allow each railroad to prescribe additional or more stringent requirements in its operating rules, timetables, timetable special instructions, and other instructions. Thus, the NPRM does not prohibit a railroad from requiring more than two crewmembers or from having additional or more stringent requirements governing the proper roles and responsibilities of a second, or additional, crewmembers as long as the train operation is in compliance with this proposed subpart.

Section 218.123 Definitions

The proposed rule offers a definition for the phrase ''tourist, scenic, historic, or excursion operations that are not part of the general railroad system of transportation'' in order to explain the plain meaning of that phrase. The phrase means a tourist, scenic, historic, or excursion operation conducted only on track used exclusively for that

purpose (*i.e.,* there is no freight, intercity passenger, or commuter passenger railroad operation on the track). If there was any freight, intercity passenger, or commuter passenger railroad operation on the track, the track would be considered part of the general system. *See* 49 CFR part 209, app. A. In the section-by-section analysis for proposed § 218.127, there is an explanation for why FRA is proposing not to exercise its jurisdiction over these types of railroad operations.

The proposed rule defines ''trailing tons'' to mean the sum of the gross weights—expressed in tons—of the cars and the locomotives in a train that are not providing propelling power to the train. This term has the same meaning as in 49 CFR 232.407(a)(5), which is a regulation concerning end-of-train devices. The NPRM needs this term in order to help define what a work train is in § 218.127(d).

The NPRM proposes a definition of ''train'' that is consistent with the way FRA has defined the term in other Federal rail regulations. *See, e.g.,* 49 CFR 229.5, 232.5 and 238.5. For purposes of this proposed rule, a train means one or more locomotives coupled with or without cars, except during switching service. The term ''switching service'' is also defined in the section. The definition of train is not intended to contain all of the exceptions to the crew size and second crewmember role and responsibility requirements; instead, those exceptions are found in other sections, clearly identified as exceptions, in the proposed rule text.

In order to clarify that a ''train'' does not include switching operations, FRA proposes a definition for ''switching service'' that is consistent with the way FRA has defined the term in other Federal rail regulations. *See, e.g.,* 49 CFR 229.5, 232.5 and 238.5. Switching service means the classification of rail cars according to commodity or destination; assembling of cars for train movements; changing the position of cars for purposes of loading, unloading, or weighing; placing of locomotives and cars for repair or storage; or moving of rail equipment in connection with work service that does not constitute a train movement. FRA has not limited switching service to yard limits, although switching service often takes place within a rail yard.

Section 218.125 General Crew Staffing and Roles and Responsibilities of the Second Crewmember for Freight and Passenger Trains

This proposed section includes the general crew staffing requirements, as well as the roles and responsibilities of the second crewmember for both freight and passenger trains. The exceptions to the general requirements are found in other sections of the proposed rule.

Proposed paragraph (a) requires each railroad to comply with the requirements of this subpart, and provides the railroad with the option to adopt its own rules or practices to do so. A railroad may want to adopt its own rules or practices that it instructs its employees to comply with rather than asking employees to directly comply with a Federal regulation. As proposed in the purpose and scope section, each railroad is free to prescribe additional or more stringent requirements as it sees fit. Regardless of whether a railroad or any person fails to comply with this subpart, or the railroad's rules or practices used to ensure compliance with the requirements of this subpart, that railroad or person shall be considered to have violated the requirements of this subpart and may be subject to an FRA enforcement action. Although this would be true even without this paragraph, FRA has proposed this paragraph because it gives the regulated community an explicit warning that FRA can take enforcement action under appropriate circumstances.

Paragraph (b) proposes the essential requirement of the entire subpart. That is, each train shall be assigned a minimum of two crewmembers unless an exception is otherwise provided for in this subpart. As explained in the preamble, a second crewmember can help prevent a single crewmember from experiencing task overload and losing situational awareness. A lone crewmember that loses situational awareness would not be able to benefit from a second crewmember who provides adequate warnings of operational restrictions and can complete some of the tasks that may be causing the lone crewmember to be overloaded. Even if an exception applies, a railroad may choose to assign a minimum of two crewmembers to each of its trains and would certainly be in compliance with this proposed subpart if it did so.

Paragraph (c) contains the proposed requirement that two crewmembers are always necessary when the train contains certain quantities and types of hazardous materials. It is proposed that this requirement be applicable regardless of whether an exception somewhere else in the subpart appears to apply. In paragraph (c)(1), FRA proposes to mandate a minimum of two crewmembers assigned to a train that contains even just one loaded freight car of poisonous by inhalation material (PIH), as defined in 49 CFR 171.8, including anhydrous ammonia (UN 1005) and ammonia solutions (UN 3318). Loaded PIH tank cars pose a tremendous safety risk to the general public and a second crewmember's actions can certainly provide an additional safeguard to compliance with all railroad rules and operating practices. In paragraph (c)(2), FRA similarly addresses the safety issues that are applicable to ''key trains,'' which commonly refers to 20 or more loaded freight cars, freight cars loaded with bulk packages, or intermodal portable tank loads containing certain types of hazardous materials, such as crude oil. The 20-car threshold follows FRA's Emergency Order 28 and proposed securement regulation and is based on AAR's definition of a ''key train'' in OT–55N. FRA is proposing a threshold of 20 cars instead of 5, 10, or 15 cars because FRA is willing to allow one-person operations when they pose less risk to the public, and by virtue of fewer hazmat cars, the risk should be less. Local trains, moving less than 20 cars, will likely be operated at slower speeds and pose less risk. The greatest risk is with these key trains. Although a single car of crude oil can be dangerous, a single car does not pose nearly as great a risk as a single loaded PIH tank car—which explains why the proposed rule requires that at least 20 of these types of cars must be in the train before the ''no exception'' to the minimum of two crewmembers requirement is triggered. Thus, based on an RSAC consensus recommending special securement procedures of unattended trains containing the types and quantities of materials described in this proposed paragraph, FRA believes special care should also be provided by a minimum of two crewmembers during rail transport. FRA would appreciate comments regarding whether this proposed requirement is too stringent or not stringent enough.

Proposed paragraph (d) contains the general requirements pertaining to the roles and responsibilities of a second crewmember when the train is moving. The NPRM is written under the premise that the locomotive engineer is the first crewmember and is always located in the cab of the controlling locomotive when the train is moving, unless the controlling locomotive is being operated remotely. FRA uses the term ''second crewmember'' largely to mean a conductor, under 49 CFR part 242, but with the understanding that since a single crewmember could hold multiple operating crew certificates, it is possible that a second crewmember could be designated as having a job title other

than conductor and not require a locomotive engineer or conductor certificate. *See* 49 CFR 242.213.

The proposed requirement in paragraph (d) is written with an expectation that, in many operations, the best location for the conductor is in the cab of the controlling locomotive when the train is moving. When a conductor is in the cab, the crewmembers can easily communicate about upcoming restrictions, signal indications, and methods of operation. These job briefings and other timely communications help ensure that the locomotive engineer is operating safely and in compliance with all applicable rules and procedures. Knowing that the conductor can provide reminders of restrictions or a level of assurance that the engineer has called the signal correctly may reduce the stress level of the engineer. As FRA explained in the preamble, it is when employees are under stress and overloaded with tasks, that a one-person operation is more likely to lose situational awareness and make a mistake, *i.e.,* a human factor failure.

Although FRA believes the optimal location for a second crewmember safety-wise is usually in the operating cab of the controlling locomotive when the train is moving, FRA certainly recognizes that safe operations can be conducted when the second crewmember is located somewhere else on the train. For example, FRA is aware that some operations are designed so that the second crewmember is on a caboose at the back of the train, which can facilitate train movements that require manually operating switches at the rear of the train. Other operations may be designed or require that a second crewmember ride in a locomotive that is not the controlling locomotive. FRA does not intend to propose a rule that would prohibit a second crewmember from safely performing his or her duties from somewhere else on or near the moving train.

In proposed paragraphs (d)(1) through (d)(4), the general requirement in proposed paragraph (d) is refined to allow for the second crewmember to be located anywhere outside of the operating cab of the controlling locomotive when the train is moving under certain conditions.

In paragraph (d)(1), it is proposed that the normal location of the second crewmember be on the train ''except when the train crewmember cannot perform the duties assigned without temporarily disembarking from the train.'' That is, the proposed general requirement for a second crewmember, not considering all the exceptions in the other sections, is for that crewmember to be on the train when it is moving except when it is necessary for that crewmember to temporarily disembark. The proposed general requirement is intended to exclude a situation where the conductor is either never on the train, or spends significant periods of time disassociated from physically being on or near the train. Thus, if a second assigned crewmember is ordered to stay in a yard tower, or other fixed location not on the train, for the majority of the time that the train is moving, the second crewmember would not be in compliance with this proposed general requirement that only permits ''temporarily disembarking from the train.'' The relaxation of the requirement that the second crewmember be on the train is intended to permit only temporary situations, *i.e.,* movements of short time or duration that are necessary in the normal course of train operations. For example, a conductor may get off a train to throw a switch and then the train is moved with the conductor on the ground so that the conductor can get back in the controlling locomotive cab without having to walk the entire length of the train. In other instances, a conductor might have to throw a switch but the train cannot easily be moved to pick up the conductor so a workaround practice or procedure has been developed to drive the conductor in a motor vehicle, or on a following train, several miles away where the conductor can then safely reboard the assigned train. FRA considers these both examples of temporarily disembarking from the train even though the latter example results in the train moving for several miles without the second crewmember on the train. To the contrary, if a railroad's practice is to stop the train many miles away from the switch, after passing multiple places where the train could be stopped safely for the conductor to board, FRA would view the practice as more than a temporary situation and it would appear to violate the proposed general requirement.

Previously in the background section (see IV. No Recommendation From the RSAC Working Group), FRA advised that a document prepared by AAR has been submitted to the docket which describes six situations where a second train crewmember would need to be located outside of the operating cab of the controlling locomotive when the train is moving in order to continue to perform the duties assigned, and then lists seven additional examples. AAR Discussion Document TCWG–14–03–31–04.pdf. The second train crewmember would then need another way to catch up to the train to get back on it. As stated previously, FRA believes all of the operations described in that AAR document are acceptable under this proposed rule, as long as the second train crewmember that is separated from the train can directly communicate with the crewmember in the cab of the controlling locomotive pursuant to proposed § 218.125(d). Meanwhile, FRA anticipates that there may be circumstances where direct communication is temporarily lost due to radio malfunctions or other communication failures. Sometimes the loss of communication will be due to circumstances within the control of the crewmembers or will be due to known radio signal obstacles (*e.g.,* geographical obstacles such as mountains). FRA accepts that direct communication may be lost temporarily due to a variety of factors, and will be looking to see that a railroad has implemented procedures or practices to reduce any potential loss of direct communication by crewmembers to a minimum before considering a potential enforcement action. FRA would appreciate comments on this issue.

Proposed paragraph (d)(2) contains the requirement that, when the second crewmember is anywhere outside of the operating cab of the controlling locomotive when the train is moving, the second crewmember has the ability to directly communicate with the crewmember in the cab of the controlling locomotive. FRA is not proposing to prescribe the methods of communication in this regulation. Deciding appropriate methods of direct communication between crewmembers is left to each railroad. Typically, crewmembers that are visible to one another will communicate by hand signals as the employees' voices cannot be heard over the locomotive engine from any distance outside the cab. Most other times, crewmembers will communicate with one another by radio or other wireless electronic devices in accordance with railroad rules and procedures and FRA's railroad communications regulation found at 49 CFR part 220. The important aspect of this proposed general requirement is that the assigned crewmembers are in direct contact with one another and do not have to communicate through an intermediary; otherwise, it would be hard to justify any perceived safety benefit to having a detached second crewmember that lacks the ability to communicate with the crewmember in the cab of the controlling locomotive

while the train is moving. The proposed requirement focuses on the second train crewmember's ability to communicate with the locomotive engineer, but the expectation is that the engineer would also have the ability to directly communicate with the second crewmember and request assistance, and that the second crewmember would be able to quickly respond.

Passenger and commuter locomotives do not always have room for a second crewmember in the locomotive control compartment, but a second crewmember may be necessary to provide assistance for shoving or pushing movements, or to otherwise assist the routine operation of the train. If the second crewmember is a conductor, that conductor may not always have a view of upcoming signal indications. For that reason, even though the passenger or commuter railroad conductor has some operating duties, the conductor may feel some disassociation with the operation of the train. FRA believes railroads should look closely at the operating duties that a second person not located in the cab can perform, as long as the second crewmember has the ability to directly communicate with the locomotive engineer. For example, before leaving each station stop, the conductor could remind the locomotive engineer of any upcoming restrictions that will be reached before arriving at the next station stop. Such job briefings between crewmembers have long been considered an effective practice by expert teams.

Proposed paragraphs (d)(3) and (d)(4) contain the last general requirements that apply when the second crewmember is anywhere outside of the operating cab of the controlling locomotive when the train is moving. The proposed paragraphs require that the second crewmember must be able to continue to perform the duties assigned even though the crewmember is outside of the operating cab of the controlling locomotive when the train is moving and, under these circumstances, the location of the second crewmember must not violate any Federal railroad safety law, regulation, or order. These proposed general requirements are catch-all provisions intended to ensure that each railroad and second crewmember does not conclude that the provisions in this regulation can somehow be used to avoid complying with a person's assigned duties or any Federal requirement. FRA understands that passenger train conductors will normally be in the body of the train, not in the locomotive cab with the engineer. In passenger train operations, normal areas for a conductor to occupy on a train include the locomotive, the passenger cars, the caboose, the side of a freight car when protecting a move, and on the ground either throwing switches or inspecting the train.

Finally, with regard to proposed paragraph (d), FRA's main concern is with adequately staffed moving trains, not stopped trains. The proposed regulatory text is silent regarding any requirements for the location of a second crewmember on a stopped train as FRA suggests that this is an issue that should be left for each railroad to decide. Of course, any person may address this issue in a comment if it is believed that FRA has missed a safety issue and should regulate the roles and responsibilities of crewmembers on a stopped train. FRA believes that the proposed definition of ''roles and responsibilities'' reflects the operational status quo and will not result in any costs or benefits. FRA requests public comment on this assumption.

Section 218.127 General Exceptions to Two-Person Crew Requirement

This proposed section is the first of several sections explaining operational exceptions to the general requirements for assigning a minimum of two crewmembers on each train specified in proposed § 218.125(b) and the location requirements for the second crewmember found in proposed § 218.125(d). In the analysis for each paragraph, FRA explains why each of these operations are not considered complex, traveling short distances, at low speeds, or under special operating rules, and therefore that they pose a low risk of causing a catastrophic accident with a one-person crew. As a reminder, the introductory paragraph of this section reiterates that the exceptions in this section do not apply when a train is transporting the hazardous materials of the types and quantities described in § 218.125(c). This proposed section is intended to cover those general exceptions that apply to both passenger and freight trains.

In this proposed section, five general exceptions are identified. The exceptions are written in such a way that all of the operations can easily be described in three words or less. As FRA has been able to describe the operation in such shorthand, the regulatory text uses those descriptions at the beginning of each paragraph to help convey to the reader where the exception can be found.

In paragraph (a), the proposed rule would except trains performing helper service from the two-person crew minimum requirement. Rather than define what helper service means in the definitions section, the regulatory text contains sufficient information to explain what the term means. The proposed paragraph states that a train is performing helper service when it is using a locomotive or group of locomotives to assist another train that has incurred mechanical failure or lacks the power to traverse difficult terrain. Helper service is a common service performed in the railroad industry as a one-person operation. It is typically not considered a complex operation as the locomotive engineer would be required to operate to the train needing assistance, and then couple to the train in order to provide assistance pushing or pulling it. The proposed paragraph clarifies that helper service is not limited to the time that the helper locomotive or locomotives are attached to the train needing assistance. That is, helper service also includes the time spent traveling to or from a location where assistance is provided. As with all these exceptions, a railroad may decide that a certain helper service operation is more complex and that more than one crewmember should be assigned to the helper service train; however, considering that cars are not attached and a railroad has an incentive to not dispatch a helper service train from a great distance away from the train needing assistance, FRA does not believe this type of operation poses a great risk to railroad employees or the general public.

Proposed paragraph (b) excludes a train that is a tourist, scenic, historic, or excursion operation that is not part of the general railroad system of transportation from the two-person crew requirement. In § 218.123, FRA defined these operations as ''a tourist, scenic, historic, or excursion operation conducted only on track used exclusively for that purpose (*i.e.,* there is no freight, intercity passenger, or commuter passenger railroad operation on the track).'' Excluding these types of operations from this proposed rule is consistent with FRA's jurisdictional policy that already excludes these operations from all but a limited number of Federal safety laws, regulations, and orders. Because these operations are off the general system, the general public does not have to worry that the train could collide with a train carrying hazardous materials or a commuter passenger train. Proposed paragraph (b) would exclude tourist operations from the two-person crew requirement regardless of whether the operations are ''insular'' or ''non-insular.'' If the tourist operation is ''non-insular,'' it is possible that the train

could collide with a motorist at a highway-rail grade crossing. However, these ''non-insular'' operations would generally involve relatively short tourist-type trains operating at slow speeds thereby reducing the probability of an accident with a motorist or even a serious derailment. Additionally, tourist operations usually have plenty of paid or volunteer train crewmembers that can assist any passengers in case of an emergency.

Similar to the safety rationale for the proposed helper service exception, proposed paragraph (c) would exempt lite locomotives or a lite locomotive consist from the two-person crew requirement. That is, when a locomotive or a consist of locomotives is not attached to any piece of equipment, or attached only to a caboose, the railroad is conducting a type of limited operation that generally poses less of a safety-risk to railroad employees or the general public. Lite locomotives would mainly be operating as a train in order to move the locomotives to a location where the locomotives could be better utilized for revenue trains that are taking or delivering rail cars to customers, or to other railroad yards where the locomotives can be used in switching operations. Additionally, lite locomotives may be operating as a train in order to take more than one locomotive to a repair shop for servicing. The proposed paragraph includes a definition of ''lite locomotive'' rather than including the definition in the subpart's definition's section. The definition proposed is consistent with the definition in FRA's Railroad Locomotive Safety Standards regulation found in 49 CFR 229.5. However, this NPRM includes a further clarification that lite locomotive ''excludes a diesel or electric multiple unit (DMU or EMU) operation.'' The reason for this additional clarification is that a DMU or EMU is a locomotive that is also a car that can transport passengers, and if the proposed rule did not contain this clarification then it could be interpreted that a passenger train containing either a single or multiple DMUs or EMUs would not need a minimum of two crewmembers. FRA has further clarified DMU/EMU exceptions for passenger trains in proposed § 218.129.

Proposed paragraph (d) would exempt work train operations from the two-person crew requirement. ''Work train'' is defined in this paragraph as operations where a non-revenue service train of 4,000 trailing tons or less is used for the administration and upkeep service of the railroad. This portion of the proposed definition of work train is the same as the definition FRA provided for in 49 CFR 232.407(a)(4), in a regulation requiring end-of-train (EOT) devices. FRA considered whether it is necessary for the work train exception to have a trailing tons limitation. FRA considered that a work train with 4,000 trailing tons would allow a railroad to operate a work train with potentially up to 50 cars attached to locomotives. A work train that contains up to 50 cars provides a railroad with a lot of flexibility in permitting such trains to be operated without a minimum of two crewmembers. Again, some railroads may voluntarily choose to assign two crewmembers even where the proposed rule does not require it. Meanwhile, a work train with more than 4,000 trailing tons appears to be getting so long that additional operational complexities are likely to arise where a second crewmember would be extremely beneficial for safety purposes. For example, if a train had to stop so a crewmember could throw a hand-operated switch, and the switch had to be returned after use, it is possible that the train could be blocking a highway-rail grade crossing for twice as long if a one-person operation required walking the length of the train round-trip versus a second crewmember being dropped off and only walking one way. Finally, the proposed exception for work trains engaged in maintenance and repair activities on the railroad includes when the work train is traveling to or from a work site. Work trains mainly haul materials and equipment used to build or maintain the right-of-way and signal systems. Work trains are unlikely to be hauling hazardous materials (unless extra fuel is needed to power machinery) and are generally not considered complex operations. They often travel at restricted speed, which is a slow speed in which the locomotive engineer must be prepared to stop before colliding with on-track equipment or running through misaligned switches. FRA would appreciate comments on the range of safety risks posed by work trains and the 4,000 trailing tons limitation to see if it is too expansive.

Proposed paragraph (e) would permit an exception to the two-person crewmember requirement whenever remote control operations are conducted under certain circumstances. Because the general requirement for a two-person crew minimum only applies to trains, and the definition of train excludes switching service, this exception applies to the use of a remotely controlled locomotive (RCL) that is traveling between yards or customers' facilities, with or without cars. Typically, RCL operations involved in switching will have a crew consisting of either one or two crewmembers. However, in switching, an RCL operation with two crewmembers is not a traditional locomotive engineer and conductor train crew arrangement. Instead, each crewmember would have a remote control transmitter and would alternate taking turns controlling the RCL when the RCL was in close proximity to that crewmember. This ''pitch and catch'' arrangement is more like having two independent one-person crews who can do all the duties of both a locomotive engineer and a conductor.

Although FRA has long perceived RCL operations as being best utilized for switching services, it is understandable that a railroad might need to move an RCL from one location to another where the RCL can be more efficiently used. FRA has recently become aware that more railroads appear to find it an acceptable practice to use a one-person RCL job to service customers. FRA does not find the practice inherently unsafe given the limitations of the technology. However, FRA might be more concerned if railroads tried to operate the one-person RCL jobs at speeds greater than 15 mph, and with increased complexity beyond the known acceptable limitations previously acknowledged by the industry. The NPRM reflects these acceptable limitations and a copy of the correspondence reflecting those agreed upon limitations has been added to the docket.

The RCL operations limitations do not contain a distance restriction, although FRA's guidance on the issue explained that the agency expected that an added limitation would be for these operations to be restricted to main track terminal operations. Considering the 15 mph speed restriction, FRA did not anticipate that RCL operations would expand beyond main track terminal operations. Although FRA does not believe that RCL operations that are so limited need a distance restriction, FRA would appreciate any comments on this issue.

Section 218.129 Specific Passenger Train Exceptions to Two-Person Crew Requirement

This proposed section permits specific passenger train exceptions to the general requirements for assigning a minimum of two crewmembers on each train. Three exceptions that apply only to passenger trains have been identified in this proposed section. Although no consensus was reached during the RSAC deliberations, FRA believes the

passenger railroad community was satisfied that these exceptions would be adequate to prevent serious disruptions in passenger train service without taking on great safety risks.

In paragraph (a), the proposed rule would allow a passenger train operation with less than two crewmembers in which the passenger train's cars are empty of passengers and are being moved for purposes other than to pick up or drop off passengers. The exception clearly does not apply just because a passenger train happens to be empty of passengers. Passenger trains might need to be moved without passengers for repairs or for the convenience of the railroad.

Although empty passenger trains pose some of the same safety concerns as trains loaded with passengers (*e.g.,* excessive speed, compliance with signal indications, and safety at highway-rail grade crossings), many commuter operations are designed for only one person in the cab of the controlling locomotive. In proposing this exception, FRA is showing a willingness to recognize the reduced safety concerns of these empty passenger train operations and leave it to each railroad to determine whether there are other adequate safeguards in place to ensure that the one-person operation is safe. Certainly, FRA does not expect this proposed rule will encourage those railroads that operate with a minimum of a two-person crew on empty passenger trains to take undue risk by taking the second crewmember off this assignment. Instead, FRA is trying to avoid a situation where the proposed rule would require adding a second crewmember who is essentially not performing any safety functions. The exception is geared more to address the lack of a need for more than one crewmember on a train with no passengers. On passenger trains, one of the central safety concerns is how the crew will protect the passengers when getting on or off the train, or in case of an emergency. If the train does not have any passengers on board and will not be picking up any passengers, a second crewmember is not needed to address any passenger's safety concerns. On the other hand, if passenger trains may encounter freight trains on the same track or an adjacent track, if switches need to be thrown, or if the train will be engaging in shoving or pushing movements, it may be beneficial to add a second crewmember to address these operating conditions or any potential emergency situations.

In proposed paragraph (b), an exemption from the two-person crew minimum is permitted to recognize operations that FRA has previously determined could potentially be operated safely with a one-person crew. The exception to the two-person crew general requirement is for a passenger train operation involving a single self-propelled car or married-pair unit, *e.g.,* a DMU or EMU operation, where the locomotive engineer has direct access to the passenger seating compartment and (for passenger railroads subject to 49 CFR part 239) the passenger railroad's emergency preparedness plan for this operation is approved under 49 CFR 239.201. As previously addressed in the analysis for the lite locomotive exception in § 218.127(c), a DMU or EMU is a locomotive that is also a car that can transport passengers. These self-propelled cars may be coupled together to form a train but are often designed so that a person cannot walk to another car without getting off the train. A married-pair unit is about the length of two cars, but allows a person to walk between the two cars/units without getting off the train. In only one instance has FRA approved the emergency preparedness plan for a one-person crew passenger train operation with the consideration that the sole crewmember could stop the train and assist the passengers without stepping off the train in an emergency. In deciding whether to approve an emergency preparedness plan, FRA will also consider the physical characteristics of the territory and how the operation would have the potential to put passengers in danger in case of a train breakdown, accident, or evacuation. For example, FRA will consider whether passengers could easily evacuate from the train with minimal assistance. Some passenger cars have door thresholds that are 48 to 51 inches above the top of the rail. With the door that high off the ground, a ladder would need to be deployed and some passengers would likely need assistance evacuating down the ladder to an area of safety. Even with good signage, passengers who are not trained to know what to do in an emergency might not realize the ladder is available, might not know how to deploy it, or might assume additional risk by rushing to evacuate without deploying it. This is exactly the type of situation where a trained second person could provide valuable assistance. Thus, if an emergency preparedness plan is required, FRA approval of that plan utilizing a one-person operation is an essential element of being able to utilize this proposed exception.

In the proposed paragraph (b) exception, FRA has considered the concerns of tourist railroads that would not be subject to the § 239.201 emergency preparedness plan FRA approval requirement. Tourist railroads, including general system tourist roads, are not subject to 49 CFR part 239, as that passenger train emergency preparedness regulation is expressly inapplicable to ''[t]ourist, scenic, historic, or excursion operations, whether on or off the general railroad system.'' *See* 49 CFR 239.3(b)(3). Therefore, general system and non-general tourist operations are not subject to § 239.201. In proposing this exception, FRA certainly did not mean to create a new requirement for a tourist railroad to comply with the passenger train emergency preparedness regulation in part 239. Thus, this exemption expressly requires FRA approval under § 239.201 only for passenger railroads subject to 49 CFR part 239.

In proposed paragraph (c), an exception from the two-person crew requirement is offered for a rapid transit operation in an urban area that is connected with the general railroad system of transportation under certain conditions. The exception itself clarifies that a rapid transit operation in an urban area means an urban rapid transit system or a light rail transit operator. For the exception from the two-person crew requirement to be used, a railroad operating a rapid transit operation in an urban area connected with the general system must ensure that all three listed conditions are met. First, the biggest safety concern with these rapid transit operations on the general system is that they have the potential to collide with much heavier freight or passenger trains. In such a collision, the rapid transit train is likely to suffer significant equipment damage and the potential for catastrophic injuries to passengers would be great. By requiring that these operations be ''temporally separated from any conventional railroad operations,'' the NPRM clarifies that the rapid transit operations could not potentially collide with heavier, conventional train operations unless the operations were not properly temporally separated. A temporally separated light rail operation on the general system is required to obtain an FRA-approved waiver demonstrating an acceptable level of safety, so FRA would have assurances that the operation can be conducted safely. *See* 49 CFR part 211, app. A, V. Waivers That May Be Appropriate For Time-Separated Light Rail Operations. The second and third conditions that must be met relate to the fact that these rapid transit operations in

an urban area on the general system may be subject to the U.S. Department of Transportation, Federal Transit Administration's (FTA) jurisdiction. FRA does not want to assert jurisdiction over an operation where FTA is already asserting adequate jurisdiction to assure safety for railroad employees and the general public.

Section 218.131 Specific Freight Train Exceptions to Two-Person Crew Requirement

This proposed section permits specific freight train exceptions to the general requirements for assigning a minimum of two crewmembers on each train. As a reminder, the introductory paragraph of this section reiterates that the exceptions in this section do not apply when a train is transporting the hazardous materials of the types and quantities described in § 218.125(c). Three exceptions that apply only to freight trains have been identified in this proposed section.

Proposed paragraph (a) identifies two specific freight train exceptions that are only applicable for small railroads known as Class III railroads. These exceptions are FRA's attempt to provide additional relief to small businesses in the railroad industry, in addition to the relief granted by the exceptions in the other sections of this proposed rule. As a prerequisite to using either of the small railroad exceptions, the railroad must determine whether the train will be operated on a railroad and by an employee of a railroad with less than 400,000 total employee work hours annually. If that is the case, there are two types of operations identified where a train can be operated with less than the required two-person crew.

The first excepted small railroad operation would take place at speeds not exceeding 25 mph and at locations where there are no heavy grades. For this exception to be used, FRA has described heavy grade as being equal to or more than 1 percent over 3 continuous miles or 2 percent over 2 continuous miles. In FRA's experience, Class III railroads that operate trains over their own track, at relatively slow speeds, and over territory without steep hills or mountains, do not pose an unacceptable safety risk to the general public or railroad employees if conducted with only one crewmember. Most Class III railroads maintain their own track to no greater than Class 2 track standards, which allow freight trains to be operated at speeds no greater than 25 mph anyway. *See* 49 CFR 213.9. Again, this is a minimum standard and a Class III railroad could certainly require two or more train crewmembers if the operation's safety would be compromised by using only one person.

The second excepted small railroad operation would take place at speeds not exceeding 25 mph and where a second train crewmember is assigned, but is not continuously on or observing the moving train as would be expected of a second crewmember. Instead, the second crewmember is assigned to intermittently assist the train's movements at critical times. For example, the second train crewmember may be ''shadowing'' the train by traveling alongside the train in a motor vehicle. The second crewmember could assist with flagging a highway-rail grade crossing, throwing hand-operated switches, or switching service when the train enters a yard or customer's facility. The second crewmember must also have the ability to directly communicate with the crewmember in the cab of the controlling locomotive. Such communication is essential to holding any required job briefings to exchange critical information about upcoming restrictions or difficult operational concerns. Most commonly, communication in this context will be by radio (or other wireless electronic devices in accordance with railroad rules and procedures and FRA's railroad communications regulation found at 49 CFR part 220), and direct communication means that the crewmembers have the ability to communicate with one another without going through an intermediary, such as a dispatcher. The proposed requirement focuses on the second train crewmember's ability to communicate with the locomotive engineer, but the expectation is that the engineer would also have the ability to directly communicate with the second crewmember and request assistance, and that the second crewmember would be able to quickly respond. In this exception, a small railroad operation is assigning a second crewmember but has the flexibility to have the second crewmember travel separately from the train. During the RSAC deliberations, shortline railroad representatives expressed a request for this type of flexibility. As these operation are to be conducted at relatively low speeds and under conditions where the one-person crew on board the train is intermittently assisted, it appears that the second crewmember can play a critical role in improving the safety of the operation even if the person is not on board or observing the moving train at all times.

The third specific freight train exception to the two-person crew general requirement in this proposed section can be found in paragraph (b). The title of this proposed paragraph indicates that it is intended to apply to what are commonly referred to as mine load-out or plant dumping operations. Even if the railroad does not use one of those terms, any similar operation which involves a freight train being loaded or unloaded in an assembly line manner at an industry while the train moves at 10 mph or less would be excepted from the two-person crew requirement. The exception is generous in that it allows these operations to be conducted at up to 10 mph. FRA expects that most of these loading or unloading operations will take place at under 6 mph, but has expanded the maximum speed to 10 mph in order to give each railroad plenty of leeway without impacting the efficiency of the loading or unloading operation. Some of these operations are overseen by a person in a tower or on the ground that can provide oversight into whether the cars are being loaded or unloaded properly. That person would be expected to be able to communicate with the locomotive engineer operating the train. As these operations are most likely being conducted at a railroad yard or a customer's facility, and at low speeds, the railroad and its customer are assuming the risk of not having a second crewmember engaged or not operating at a safe speed. Considering the low speeds and low safety risk to railroad employees and the general public, FRA believes an exception to the two-person crew requirement is warranted.

Section 218.133 Continuance of Freight Operations Staffed Without a Two-Person Train Crew Prior to January 1, 2015

This is the first of two proposed sections in which FRA is co-proposing two options. In this proposed section, each railroad may continue any one-person train operations that were conducted prior to January 1, 2015, as long as (1) the train is not transporting the hazardous materials of the types and quantities described in § 218.125(c) and, (2) after submitting a description of the operations, FRA does not find that the operation poses unacceptable safety risks and the railroad has implemented or agreed to implement off-setting actions required by FRA. FRA is not proposing to include in the regulatory text the ''unacceptable safety risks'' standard described here, or make approval decisions using a set of conditions or performance standard(s). FRA does not believe a one-size-fits-all approach will work. Each railroad will need to present its particular one-person operations and make the case that the

safety concerns added by reducing crew staff have been addressed in some reasonable manner. FRA is not willing to say that PTC by itself is enough because even PTC has its limitations. FRA wants to see that a railroad has built in contingencies for expected, routine problems (*e.g.,* flagging or blocking grade crossings) and rare, but possibly catastrophic, accidents/incidents.

In determining whether a request poses unacceptable risks, FRA will look at acceptable industry standards and available mitigating practices. FRA railroad safety data will be reviewed and FRA may use a focused inspection. FRA requests public comments on ways to differentiate acceptable safety risk versus unacceptable safety risk.

FRA intends to begin its assessment of a request to continue using a one-person crew operation believing that there are few one-person operations existing currently, and that those operations have not yet raised serious safety concerns. Thus, FRA expects to approve existing operations as long as the railroads with existing operations make a reasonable showing that the safety concerns of reducing crew size were addressed by taking other off-setting actions that likely formed the basis supporting the operation's safe compliance history. A railroad can satisfy FRA's concerns by showing that the railroad has taken a sensible business approach to analyzing the operation and reducing the risks and hazards associated with reducing train crews to less than two crewmembers. However, FRA considers this an approach that puts safety interests ahead of business cost considerations. The expectation is that the approval process will largely pin down the status quo for current one-person train operations that are methodically implemented. FRA will be critical of operations that fail to show careful planning to reduce the likelihood of mishaps and reduce collateral damages in the event of an accident. FRA has promulgated other rules that seek to freeze the status quo, including the following, and expect the approval process contemplated in this rule to work similarly:

1. *49 CFR Part 232—Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment; End-of-Train Devices, (§§ 232.103, 232.305, and 232.603):* Adopting AAR's standard for single car air brake tests and ECP braking systems, as well as AAR's general requirements for all train brake systems except where noted. 66 FR 4193, Jan. 17, 2001; 74 FR 25174, May 27, 2009, RIN 2130–AB16.

2. *49 CFR Part 214—Railroad Workplace Safety (§§ 214.113, 214.115, and 214.117):* Adopting American National Standards Institute's (ANSI) standards for protective headwear and footwear for industrial workers in the context of railroad bridge workers. ANSI standards also adopted for occupational and educational eye and face protection when workers face physical, chemical, or radiant agents. 57 FR 28127, Jun. 24, 1992, RIN 2130–AA48.

3. *49 CFR Part 218—Railroad Operating Practices, Subpart F:* This subpart was based on a Secretarial initiative to reduce human factor-caused accidents. The rule adopted certain universally accepted railroad operating rules related to the handling of equipment, switches, and fixed derails with the goal that making the operating rules Federal requirements would bring greater accountability. FRA emphasized that an enforcement mechanism is necessary ''because prior reliance on the railroad to ensure employee compliance with railroad operating rules without a Federal enforcement mechanism has repeatedly proven to be inadequate to protect the public and employee safety.'' 73 FR 8442, 8446, 8449, Feb. 13, 2008, RIN 2130–AB76.

4. *49 CFR Part 224—Reflectorization of Rail Freight Rolling Stock (§ 224.15):* Adopting standards for the characteristics of retroreflective sheeting developed by ASTM International, formerly known as the American Society for Testing and Materials (ASTM), which is a globally recognized leader in the development and delivery of international voluntary consensus standards. 70 FR 62166, Oc. 28, 2005, RIN 2130–AB68.

5. *49 CFR Part 229—Railroad Locomotive Safety Standards (§§ 229.205 and 229.217):* Adopting AAR's locomotive crashworthiness standard. 71 FR 36912, Jun. 28, 2006, RIN 2130–AB23.

6. *49 CFR Part 238—Passenger Equipment Safety Standards (§§ 238.115, 238.121, 238.125, 238.127, 238.229, 238.230, and 238.311):* Adopting the American Public Transportation Association's (APTA) standards for emergency lighting, emergency intercom communication, emergency signage for egress/access of passenger rail equipment, low-location emergency exit path marking, any repair to a safety appliance bracket or support considered to be part of the car body or other structural repair, and single car air brake tests. 64 FR 25660, May 12, 1999, RIN 2130–AA95.

FRA seeks comments on the successes and challenges of these rules and the extent they should be used as a model for this rule.

A railroad may review its one-person operations and find that most or all of these operations are already acceptable to FRA as indicated by other sections in this proposed rule. Obviously, if FRA has proposed a blanket exception to the two-person train crewmember requirement for a particular type of operation industry-wide, it would be unnecessary for the railroad to comply with this proposed section. FRA has encountered difficulty understanding the scope of all the one-person train operations currently being used even though FRA made repeated requests to the RSAC Working Group members for information, AAR and ASLRRA have provided some generalized information, and FRA has surveyed its own regional staff. Each time FRA met with the RSAC Working Group, it seemed that FRA learned about a new type of one-person operation, but without much detail that would allow FRA to determine that any particular operation was actually safe. Thus, the purpose of this proposed section is to provide FRA with some needed oversight to ensure that railroads are not conducting operations that pose significant safety risks to railroad employees or the general public.

If a railroad wants to continue a one-person operation begun prior to January 1, 2015, proposed paragraph (a) in both options requires that the railroad submit a description of the operation to the Associate Administrator within 90 days of the effective date of this rule. Eleven numbered items are listed under proposed paragraph (a) that a railroad would be required to address in its description of the operation it would like to continue. A railroad should provide a thorough description of the operation, and the 11 numbered items are intended to solicit a complete picture of the risks associated with the operation as well as how much thought the railroad's operations managers have given to whether the operation can provide an appropriate level of safety.

FRA proposes to require railroads to provide the location of the continuing operation with as much specificity as can be provided as to industries served and territories, divisions, or subdivisions operated over. Documentation supporting the locations of prior operations will be favorably reviewed, although not required. This provision goes to proving that an operation is going to be continued, and that a railroad is not falsifying that an operation is in existence when it is actually a completely new operation. For example, documentation could

show that the railroad has run a particular one-person train for 3 days per week for 5 years without incident. That kind of information would show the operation actually existed and was safe. A railroad that could not provide any documentation of a supposedly existing operation would be viewed with skepticism. Maybe, FRA would need to interview employees and supervisors to determine whether the operation actually existed, and to develop the parameters of the operation.

If the railroad has not previously conducted a safety analysis of the one-person train operation that it can use for its submission to FRA, it will be required to do one to comply with this proposed rule under either option. The difference between the co-proposals is that Option 1 requires the safety analysis to be submitted to FRA with the description of the one-person train operation while Option 2 requires that the railroad conduct the safety analysis and make it available to FRA upon request. Railroads that do not maintain separate records on the safety of their one-person crew operations will have to describe the one-person crew operation and should be able to approximate the relevant data. For example, a railroad might describe that on the route under consideration: Five one-person trains operate per week on average, each train operates a distance of about 50 miles, only one train per week carries any hazardous materials, and the one-person operation has resulted in two reportable accidents in 10 years, providing the dates of the accidents. A railroad might add that there are no other train operations in the vicinity of these one-person operations when they are active, and that includes on the same track or adjacent track. FRA requests public comments on the extent to which railroads have sufficient records to provide FRA reliable safety analysis or data of their one-person crew operations.

The requirement for a railroad to provide the eleven numbered items listed under proposed paragraph (a) is intended to solicit significant information that FRA will need to make an objective decision on whether to allow the continuance of an operation established prior to January 1, 2015. Sometimes, FRA should be able to look at the collected information and determine that the operation is in compliance on its face with all applicable rail safety regulations and does not appear to pose any unacceptable risks. Generally, these operations would be low-speed operations, on well-maintained track where the one-crewmember train would have a fairly predictable schedule or one that minimizes fatigue, and would not contain any variables suggesting a catastrophic accident is foreseeable. For example, FRA would expect to approve the continuation of a freight operation under Option 1, or not issue a disapproval under Option 2, under the following circumstances: (1) 70 Percent or more of the railroad's carload traffic is non-hazardous materials; (2) the railroad has adopted crew staffing rules and practices to ensure compliance with all Federal rail safety laws, regulations, and orders; (3) the maximum authorized track speed for the operation is 40 mph; (4) the one-person train crewmembers have set daytime schedules with little fluctuation; (5) the one-person train crewmembers average on-duty time is less than 9.5 hours per shift; (6) the operation is structured so that the one-person crewmember would not have to leave the locomotive cab except in case of emergency; (7) the railroad has a rule or practice requiring the one-person crew to contact the dispatcher whenever it can be anticipated that communication could be lost, *e.g.,* prior to entering a tunnel; (8) the railroad has a rule or practice requiring the one-person crew to test the alerter on the lead locomotive and confirm it is working before departure; (9) the railroad has a rule or practice requiring dispatcher confirmation with the one-person crew that the train is stopped before issuing a mandatory directive; (10) the railroad has a rule or practice requiring a one-person crew have an operable cell phone and radio, and both must be tested prior to departure; and (11) the railroad has a method of determining the train's approximate location when communication is lost with the one-person crew unexpectedly and a protocol for determining when search-and-rescue operations must be initiated. FRA is providing this example for illustrative purposes, to spur understanding of the agency's position and encourage public feedback. Although FRA feels strongly that the example would meet FRA approval, there may be other facts or circumstances about an operation beyond the description provided that would change how FRA viewed a particular operation. FRA encourages the submission of comments describing one-person operations so that FRA can provide additional examples in a final rule.

FRA would be unlikely to approve the continuation of an operation under Option 1, or would likely disapprove an operation under Option 2, when a railroad's one-person operation has a poor safety record compared with the industry average or compared with similar operations with one or multiple crewmembers. Other evidence of a poor safety culture on the railroad might trigger the need for FRA to conduct an investigation to support a determination. If FRA is unsure about any of the other risk factors, FRA will want to initiate its own investigation to assess the likelihood that the operation can be implemented safely. Although FRA is not proposing a requirement that FRA investigate the safety concerns of each one-person operation a railroad wishes to continue, FRA expects to use its discretion and conduct some investigations when FRA is unfamiliar with the operation or wants to ensure that the railroad has identified all of the hazards. In addition to reviewing records, such an investigation would likely involve FRA personnel interviewing railroad employees, supervisors, managers, and customers. FRA might want to ride along the route to observe the operation in progress, or consider what members of the general public along the right-of-way might be impacted in the case of an accident/incident, especially at public highway-rail grade crossings. Furthermore, FRA personnel might also have information through current or prior observations and audits that could shed light on the safety of a railroad's operations, equipment maintenance procedures, or condition of the railroad's track and signal infrastructure. Evaluating a railroad's safety record and safety culture follow from the TSB of Canada's report following the Lac-Mégantic accident described in the Background section of this NPRM, and from international norms described in the Regulatory Impact Analysis that accompanies this rulemaking and can be found in the docket.

FRA does not expect to request or require existing one-person crew operations to implement additional risk mitigating actions in order to obtain FRA approval unless the process reveals unexpectedly that the operations achieved good safety records based on sheer luck and inadequate planning. If an existing operation was actually severely lacking in existing mitigation measures and the railroad was unwilling to address serious safety concerns, FRA would be justified to deem the operation unsuitable for continuance as provided for in paragraph (b) of both co-proposal options.

In proposed paragraph (b) Option 1, FRA has taken the approach that an explicit approval process for each and every submission is necessary. The

proposed paragraph indicates that FRA expects to issue feedback within 90 days of receipt of the submission. Under some circumstances, FRA may allow the operation to continue but with additional conditions attached. For example, a Class III railroad may want to continue an operation that permits a one-person train to travel 100 miles each day over flat territory where the railroad is maintaining the track to Class 3 standards. As the track class permits speeds for freight trains up to 40 mph, the railroad would like the train to operate at over 25 mph up to the maximum authorized speed for the track even though the specific freight train exception under proposed § 218.131(a) only permits a blanket exception up to 25 mph. During the RSAC Working Group meetings, some railroad members suggested that the 25-mph limitation in the blanket exception in § 218.131(a) could be a disincentive for a railroad to maintain its track to a higher standard than Class 2. As proposed, § 218.133 would provide FRA an opportunity to consider all the circumstances, to exercise some flexibility in permitting safe operations with less than two assigned crewmembers, and assure railroad employees and the general public that railroads are not placing them at unnecessary risk. This approach strikes a balance between rubber-stamping the status quo and prohibiting any operation that does not meet one of the blanket exceptions to the two-person crew requirement.

Although proposed paragraph (b) Option 1 does not contain detailed procedures for how FRA will conduct reviews, a detailed procedural process seems unnecessary. In most instances, FRA expects to review all of the details in the submission and issue written notification that the railroad may continue the operation ''as is.'' However, FRA recognizes that some operations may pose safety risks for which a railroad has not accounted by implementing mitigation measures. Under those circumstances, FRA intends for the Associate Administrator to initiate a discussion with the railroad about the operation before making a determination. There may be details of the operation that the railroad can expand upon from its submission that would alleviate FRA's concerns. In other instances, a railroad might offer to modify its operations and submission request voluntarily after a thorough discussion of FRA's concerns. In still other instances, FRA and the railroad may not be able to resolve their differences and FRA will issue written notification explaining what modifications are necessary for continuing the operation or an explanation for why FRA has decided the operation is patently unsafe and cannot be continued even with modifications.

Although FRA is uncertain about whether any existing operations would be inadequate, the background section of this proposal suggests concerns that an operation should address, if it does not already. FRA's overall concerns are (1) whether a railroad's operations with less than two crewmembers are in compliance with all Federal rail safety laws, regulations, and orders and (2) whether the railroad implemented appropriate measures to reduce safety hazards likely to be created by the reduction in crewmembers. With regard to the first concern, FRA must enforce compliance with rail safety requirements. For example, has the railroad ensured that each person who serves as a one-person crew is certified as both a locomotive engineer and conductor? 49 CFR 242.213(d). FRA would be surprised to find such blatant noncompliance in existing operations, but it is certainly possible that FRA has not detected the noncompliance through its regular inspection and investigation program. Currently a railroad does not have a duty to report to FRA on the aspects of its one-person train crew operations. With regard to the second concern involving a railroad's plans to reduce foreseeable safety hazards likely to be created by the reduction in crewmembers, FRA suggests that each railroad look to the regulatory safety hazards FRA described in the background section of this proposal to see if it addressed those same hazards. For example, a railroad should anticipate that trains will need assistance protecting certain highway-rail grade crossings because of the inconvenience to highway users, emergency responders, or the general public if those crossings are blocked. A railroad that can show FRA that it has an established procedure to quickly unblock or protect crossings that would normally be protected by a second crewmember would satisfy FRA's concern. FRA also raised the concern in the background section of this proposal that a one-person crew would have greater opportunities to operate impaired by alcohol, drugs, or electronic device distraction. A railroad that requires a one-person train crew to report to a supervisor at the beginning or end of a tour of duty, or that periodically stops trains during efficiency testing to check for potential distractions, would allay those concerns. In closing, FRA believes a railroad that is in compliance with all rail safety laws, regulations, and orders, and has addressed foreseeable safety hazards created when a train has less than two crewmembers by making changes to the railroad's operating rules, procedures, or practices, can expect to receive FRA approval to continue its one-person operation.

Proposed paragraph (b) Option 2 differs from Option 1 in that it does not require explicit FRA approval prior to continuing one-person train operations that were conducted prior to January 1, 2015. However, Option 2 proposes a requirement that the railroad file a description of the operation with FRA prior to continuing the operation. FRA understands that some one-person operations may be seasonal, and others year-round. It is proposed that those railroads that will be operating at the time of the effective date of the rule will be required to file its description either no later than the effective date of the final rule or prior to the first day that the operation is continued after the effective date of the final rule. Option 2 differs from Option 1 in that one-person operations that were operating prior to January 1, 2015, will be presumed to have been operating with an adequate level of safety, unless FRA determines otherwise. An FRA determination disapproving the continuation of any operation would need to contain the facts and rationale relied upon in making that determination. FRA certainly realizes that any final agency decision is an action that is potentially reviewable in Federal court and would need to contain sufficient information to survive legal scrutiny.

FRA is considering how to provide an electronic way to file a description of an operation that a railroad would like to continue without a two-person crew. One option is for FRA to require the submission of all the descriptions to one docket created for the purpose, or to create a docket for each description, at DOT's Docket Operations and at *http://www.regulations.gov.* Another option is to add to the proposed rule an option to electronically file by email or by uploading a document to a secure Web site. Under this second option, FRA would need to create an internal electronic database to track all of the descriptions and FRA notifications, if any. FRA may consider other options to electronically file or maintain databases of these descriptions. A third option is to publish information available via FRA's public Web site. FRA has chosen this third option as its proposal in paragraph (b) of Option 2. In Option 2, FRA also has proposed a requirement

that specifies that a railroad has a duty to adhere to any conditions FRA imposes on the railroad's one-person operation. FRA would appreciate any comments suggesting preferences for any particular methods of filing and the need to specify that a railroad must adhere to any conditions imposed by FRA.

FRA is proposing a cut-off period of January 1, 2015, to differentiate existing operations from new operations because it wants to freeze the timeframe based on when the RSAC meetings were held. FRA seeks comments on whether a different date should be used and why.

Section 218.135 Special Approval Procedure

This is the second of two proposed sections in which FRA is co-proposing two options. This proposed section would offer each railroad a procedure to obtain FRA-approval for a start-up method of train operation that does not meet the requirements of the general two-person crew requirements, any of the blanket exceptions, or the continuance of operations prior to January 1, 2015, exception. The special approval procedure has been used in other FRA regulations with success (*see, e.g.,* 49 CFR 232.17), and is, therefore, a proven method for receiving FRA-approval in much less time than the waiver process provided for in 49 CFR part 211 and § 218.7. For a waiver, FRA may need up to 9 months to issue a decision. 49 CFR 211.41(a). In contrast, proposed paragraph (f) in Option 1 states that FRA intends to normally issue a decision under this section's special approval procedure within 90 days. If a railroad submits a petition for special approval of an operation with less than two crewmembers based on a sensible business plan that adequately addresses the safety hazards, FRA anticipates the agency's analysis would be routine in nature and a decision can quickly be issued. However, if a passenger railroad intends to reduce crew staffing, it must have an approved passenger train emergency preparedness plan or file a waiver request with FRA regarding part 239, passenger train emergency preparedness, in this chapter; however, rather than wait until FRA approves the part 239 plan or waiver request, a passenger railroad is encouraged in proposed paragraph (a) to file a request for special approval of an operation with less than two crewmembers at the same time that it files the part 239 waiver request. FRA can certainly consider both requests at the same time.

Under paragraphs (b) and (e) in Option 2, FRA proposes to allow a railroad to initiate a train operation with less than two crewmembers as long as: (1) The railroad provides FRA a complete description of the operation and (2) the railroad officer in charge of operations signs a statement attesting a safety analysis of the operation has been completed and that the operation provides an appropriate level of safety. In Option 2 under paragraph (e), FRA would not have a need to issue approval decisions as approval would be presumed after the descriptive information and attestation is submitted to FRA. FRA would be able to investigate such operations to evaluate whether they are providing appropriate safety. FRA may halt or attach conditions to the continuance of such operations if it determines that an operation is not providing an appropriate level of safety. FRA will consider the benefits and costs of conditions, as well as safety impacts, and provide the basis for halting or adding conditions to operations to the railroad and the public. This information can be used by other railroads considering initiating train operations with less than two crewmembers. An FRA determination disapproving a petition for special approval would need to contain the facts and rationale relied upon in making that determination. FRA certainly realizes that any final agency decision is an action that is potentially reviewable in Federal court and would need to contain sufficient information to survive legal scrutiny.

Even with the shorter turnaround time compared to the waiver process, FRA envisions the special approval process contemplated in Option 1 will work similarly to other special approval processes used in existing regulations, although the standard in both co-proposal options of this rule are an appropriate level of safety and FRA's rules generally require an equivalent level of safety for a special approval to be granted. The following are examples of existing special approval processes:

1. *Rules of Practice, 49 CFR 211.55:* FRA has an overarching special approval procedure for any requests pertaining to safety not otherwise provided for in any FRA rule. These requests will be considered by FRA's Railroad Safety Board. 41 FR 54181, Dec. 13, 1976, No RIN found.

2. *Reflectorization of Rail Freight Rolling Stock, 49 CFR 224.15:* This special approval procedure provides a mechanism for FRA review of requests to apply, inspect, or maintain retroreflective sheeting ''in accordance with an alternative standard providing at least an equivalent level of safety.'' 70 FR 62166, Oct. 28, 2005, RIN 2130–AB68.

3. *Railroad Safety Appliance Standards, 49 CFR 231.33:* Procedure for special approval of existing industry safety appliance standards that ''provide at least an equivalent level of safety.'' 76 FR 23726, Apr. 28, 2011, RIN 2130–AB97.

4. *Brake System Safety Standards for Freight and Other Non-passenger Trains and Equipment; End-of-Train Devices, 49 CFR 232.17:* Special approval procedure (found in 49 CFR part 232, subpart A), provides for requests for special approval of a variety of requirements including a plan for the movement of defective equipment and any alternative standard or test procedure for conducting single car air brake tests. The alternative must be ''consistent with the guidance . . . and will provide at least an equivalent level of safety or otherwise meet the requirements contained in this part.'' 66 FR 4193, Jan. 17, 2001, RIN 2130–AB16.

5. *Passenger Equipment Safety Standards, 49 CFR 238.21:* Special approval procedure (found in subpart A—General), provides for requests for special approval of a variety of requirements including fire safety, locomotive fuel tanks, safety appliances, and periodic brake equipment maintenance. The alternative must ''provide at least an equivalent level of safety.'' 64 FR 25660, May 12, 1999, RIN 2130–AA95.

In Option 1, the proposed special approval procedure contains three safeguards to ensure that interested parties are involved in the review process. First, proposed paragraph (b)(4) requires a statement affirming that the railroad has served a copy of the petition on the president of each labor organization that represents the railroad's employees subject to this part, if any, together with a list of the names and addresses of the persons served. Second, proposed paragraph (d) requires FRA to publish a notice in the **Federal Register** concerning each petition. Third, proposed paragraph (e) provides a 30-day comment period for any person who wishes to file a comment on the petition.

Under paragraph (b) of both co-proposal options, the petition for special approval of a train operation with less than two crewmembers must contain certain basic information regarding the petitioner's contact information. Both co-proposal options contain the requirements for what the substantive portion of the petition must contain. All of the information requested in proposed paragraphs (b)(2) and (b)(3) of Option 1 are intended to give FRA a

detailed understanding of the operation and why the railroad believes the operation is safe.

The proposed requirements for a railroad's submission under Option 2 differs from Option 1 in that a safety analysis must be completed, but does not have to be submitted with the description of the one-person operation. Under Option 2, FRA proposes to more greatly rely on each railroad's judgment and incentives to provide safe operations. A safety officer would be required to provide a statement that the railroad had conducted a safety analysis of the start-up operation which would address potential safety hazards and regulatory compliance concerns associated with the one-person operation and that the officer believes the operation would have an appropriate level of safety. Because of the proposed attestation, FRA is proposing to allow start-up one-person operations prior to FRA's review and approval as proposed in Option 1. However, FRA may request that safety analysis and a railroad will be obligated to provide it.

Option 2 is proposed to permit railroads to begin operations with less than two crewmembers without FRA approval and places the burden on FRA when reviewing railroads' applications to justify that the operation does not provide an appropriate level of safety. Under Option 2, in response to a railroad's application to use less than two crewmembers on an operation, which would include a certification from the railroad that it has conducted a safety analysis and has determined that the operation provides an appropriate level of safety, FRA would need to identify specific safety hazards created by or exacerbated by use of less than two crewmembers—supported by specific empirical, statistical, or other similar types of evidence—in order to overcome the railroad's certification. Option 2 may place a slightly higher burden on FRA than Option 1 depending on the involved safety hazard and because FRA may need to review and observe the actual operation and will need to consider information gathered on the already existing operation.

In addition, because under Option 2 FRA would be overriding a railroad's safety certification if FRA were to attach conditions to or halt an operation, FRA considered including language in the Option 2 proposal which would require FRA to ''demonstrate'' instead of make a ''determination'' that the operation does not provide an appropriate level of safety to capture a higher evidentiary burden on FRA. However, FRA chose not to include this term in the Option 2 proposal because FRA believes it would place too high of an evidentiary burden on FRA and would create significant uncertainty as to what FRA must establish in order to attach conditions to or halt an operation. While FRA provides a presumption that the specifically identified one-person operations contained in §§ 218.127 through 218.131 of the proposal provide an appropriate level of safety, FRA does not believe such a presumption is appropriate under either Option 1 or 2 of the proposal as operations utilizing either option have never existed and have never been operated with less than at least two crewmembers. With that said, FRA agrees that under either Option 1 or 2, FRA would need to provide statistical, empirical, or other similar types of specific evidence to justify a determination that a particular operation does not provide an appropriate level of safety. Such evidence must be able to withstand judicial review under an ''arbitrary and capricious'' standard established by the Administrative Procedure Act. 5 U.S.C. 706. Nevertheless, Option 2 may elevate FRA's evidentiary burden. Interested parties should provide their views on what FRA's evidentiary burden should be under the two proposed options and whether the suggested language is adequate or whether FRA should instead include the language that FRA ''demonstrate'' that an operation would not provide an appropriate level of safety, or whether there is alternative language which should be included instead.

Under both options 1 and 2, if FRA determines that an existing or start-up operation with less than two crewmembers requires additional conditions for it to attain an appropriate level of safety, or that an operation cannot attain an appropriate level of safety regardless of additional conditions and therefore cannot operate or must be halted, FRA will provide the specific empirical, statistical, or other similar evidence justifying FRA's determination in a decision statement. The statement will also document the benefits and costs of conditions and alternatives that FRA considered, as well as the safety risk factors associated with the operation.

Under both options, the proposed rule requires that FRA provide ''the specific reason(s) and rationale for the decision.'' The proposal thus requires that any FRA decision to attach conditions to or halt or prevent an operation must include a detailed description—supported by empirical, statistical or other similar types of specific evidence—of how the operation falls short of the appropriate level of safety standard. In the decision statement, FRA will identify the specific hazard(s) that are presented by the introduction of the operation that would not exist if the operation used a second crewmember meeting the proposed ''roles and responsibilities'' definition, or the specific hazard(s) that already existed for that operation which would be exacerbated if the operation did not use a second crewmember meeting the proposed ''roles and responsibilities'' definition. Sometimes the specific hazard(s) will be self-evident and it will be unnecessary for FRA to provide in the decision statement empirical, statistical, or other types of similar evidence to justify the safety problem. One such example is stopping and flagging highway-rail grade crossings where there has been an activation failure and no second crewmember is available to dismount from the locomotive and flag the crossing for the protection of highway users. FRA would want to see that the railroad had a plan for addressing that situation, especially if the train will traverse crossings in populated areas where the train could potentially block highway user traffic for extended periods of time. An existing FRA regulation found at 49 CFR part 234 contains the restrictions and requirement for a railroad to handle signal activation failures and the circumstances when a flagger must be present. That FRA grade crossing safety regulation also requires a timely response by the railroad to such malfunctions. 49 CFR 234.103. Thus, FRA would expect that a railroad's plan would identify operating rules and procedures that it has in place and would describe its staging or location of personnel to ensure that proper personnel are present in a timely fashion to flag the crossing before permitting a train to traverse the crossing. Currently, if an existing one-person operation is involved in an activation failure circumstance the train could not proceed across the crossing until someone appropriately trained in flagging arrives to flag the crossing (in current two-person operations the second crewmember is trained and would flag the crossing).

Other hazards may not be self-evident. In such cases, FRA's decision statement would include the specific empirical, statistical, or other type of similar evidence justifying FRA's determination. For example, if FRA were to decide to halt or attach conditions to an operation due to a concern about the train's speed (and the

train's speed does not exceed maximum limits established for the class of track), FRA's decision statement would include the empirical or other similar evidence to justify why the less than two person train traveling at its desired speed would not provide an appropriate level of safety. Moreover, and as described further below, if FRA were to condition approval based on the operation lowering speed (or any other condition), the decision statement would address the costs and benefits of the lower speed condition, as well as alternatives considered by FRA. Similarly, if FRA were to decide to halt or attach conditions to an operation due to a concern about the crew's work schedule, FRA's description would identify the specific statistical, empirical, or other similar types of evidence to justify why the operation's schedule would not provide an appropriate level of safety. If FRA were to condition approval based on the operation using a different work schedule (or any other condition), the decision statement would address the costs and benefits of the condition, as well as alternatives considered by FRA. These examples are not exhaustive. In all cases where safety hazards are not self-evident, FRA would provide in the decision statement the empirical, statistical, or other type of evidence justifying its determinations, and the benefits and costs of the condition(s) imposed on a railroad and alternatives considered.

In addition, if FRA were to decide to require an operation to use a particular technology or adopt a practice (or any combination of technology or practice) as a condition for operating with less than two crewmembers, the decision statement would identify the specific hazard that the technology or practice is intended to address and cite the evidence that justifies the technology or practice as an effective means for addressing the risks of the hazard. If FRA were to decide to halt or prevent an operation because FRA believes it cannot provide an appropriate level of safety even with additional conditions, the decision statement would describe the specific hazard(s) that present the risk, the specific interventions that FRA considered to address the hazard(s) (including the benefits and costs of the interventions), and an explanation for why FRA decided that no intervention could effectively address the hazard(s) and provide for an appropriate level of safety. FRA will engage the railroad in making any such determination and consider alternatives and analysis provided by the railroad, which will also be documented in the decision statement.

Whether an existing hazard or newly created potential hazard, FRA's decision statement will identify whether the operation would likely be approved if specific conditions are met. FRA may need to add a disclaimer to a decision that additional conditions may be added if not met within a certain timeframe, in the rare situation that additional hazards are identified between the time of the original special approval application and a revised application. At this time, FRA does not foresee that any particular existing or start-up operation could not meet the appropriate level of safety standard with some conditions added, although some railroads may choose not to accept FRA's conditions and could certainly suggest to FRA a counter-proposal. In each case, FRA's decision statement will include the justification for halting or adding conditions to operations, explain how particular safety and operational factors are weighed in making the decision, and provide evidence that is relied upon.

FRA's decision statement will also document the benefits and costs that FRA considered in making its determination. The level of detail and analysis of benefits and costs will depend upon the magnitude of cost of any condition(s) that FRA attaches to a particular operation. For example, if FRA requires an operation with significant resources to use a particular technology that has a one-time cost of $500 and minimal maintenance costs, the decision statement would include an estimate of that cost, at least a qualitative discussion of the technology's benefits supported by evidence, and an explanation for why FRA believes those benefits justify the cost of the technology. On the other hand, if FRA requires an operation to adopt a practice that would impose a significant cost, the statement would provide a detailed analysis of the benefits and costs of the technology or practice, and an explanation for why FRA believes the condition(s) result in net societal benefits. FRA will allow railroads an opportunity to respond to the benefit and cost information that FRA considers in making its determinations. If FRA does not use or agree with the information provided by railroads, FRA will explain why in its decision statement. Economic information would ideally be used by the railroad to provide more cost-effective alternatives to address FRA's safety concerns. FRA seeks public comments on better ways to ensure that the information presented in the decision statement effectively justifies FRA's determinations and provides railroads meaningful guidance on how train operations using less than two crewmembers can provide an appropriate level of safety.

Under Option 1, FRA wants to collect sufficient information to be assured that the railroad has considered how a one-person crew could potentially perform tasks typically performed by a second crewmember, either with or without technological safeguards. Certainly, FRA is concerned with preventing or significantly mitigating the consequences of accidents, and each railroad petitioner should focus on addressing accident prevention issues in a petition. When a railroad files a petition for special approval, attention should be given to not just what the technology can do, but that the railroad has considered the additional burden placed on the one-person crew. Railroads are also advised to consider task overload, situational awareness concerns, as well as fatigue factors. A railroad that can show it has taken a sensible business approach to analyzing the operation and reducing the risks and hazards associated with reducing train crews to less than two crewmembers will likely satisfy FRA's concerns and can expect to have a special approval petition approved. FRA will certainly look more favorably on petitions that take a holistic approach to the safety of the operation when deciding whether to approve a petition for special approval.

In the preamble discussion of how this proposed rule differs from FRA's suggested recommendations to the RSAC, FRA explained that it considered whether to adopt an explicit exception from the two-person crew staffing requirement whenever a railroad had implemented a PTC system with certain capabilities, or some other combination of technologies and other operating safeguards. FRA indicated during the RSAC discussions that it was willing to consider safeguards such as: Electronically controlled pneumatic brakes; appropriate installation of wayside detectors, especially hot box, overheated wheel, dragging equipment, and wheel impact load detectors; enhanced scheduled track inspections with track inspection vehicles capable of detecting track geometry and rail flaws; implementation of a fatigue management system with set work schedules; and procedures for providing a one-person train operation with additional persons when necessary for en route switching, crossing protection, or any required train-related inspection. FRA estimates the cost to railroads from adding these safeguards as a condition

of FRA approval of starting up a one-person crew operation would be $580,000, and benefits are unquantified. Of course, the problem with any list like this one is that it would likely not be inclusive of all the various types of mitigation measures a railroad could implement that have the potential to compensate for the loss of a second crewmember. Additionally, without FRA evaluations, it would be difficult to assess whether a railroad has established effective training and a strong safety culture, which are essential for improving safety reliability when technology cannot ensure a high degree of safety.

FRA is reluctant to rely solely on the presence of PTC to ensure new one-person crews are safe in all types of operations and environments because there are a number of situations where PTC technology will demand more tasks from the train crew, not substitute for the tasks that would be carried out by a second crewmember, or fail to make full use of crew resource management principles. In the background section, research is described that explains how PTC cannot account for all the physical and cognitive functions that a conductor currently provides. Based on the research already described and FRA's understanding of PTC systems, PTC does not: (1) Check the engineer's alertness, which includes ensuring that the engineer is not fatigued, under the influence of any controlled substance or alcohol, or distracted by using a prohibited electronic device; (2) fill in the knowledge or experience gaps of the sole crewmember about the physical characteristics of the territory the train is operating over, how to address a particularly difficult operating problem, or help in diagnosing and responding to train problems and other exceptional situations; (3) review, comprehend, and accept consist and authority data while the train is in motion; (4) assist in the physically demanding task of securing a train with hand brakes, typically at the end of a tour of duty when the crew is looking forward to going off-duty; (5) assist in protecting highway-rail grade crossings or breaking up the train at such crossings to avoid blocking them from highway users for extended periods; (6) update train consist information arising from the set out and pickup of cars; (7) protect the point, *i.e.,* the leading end of the train movement, during shoving or pushing movements where the locomotive engineer is not operating from the leading end of the leading locomotive in a position to visually determine conditions in the direction of movement; (8) assist a locomotive engineer when complying with ''restricted speed,'' which requires a locomotive engineer to stop the train within one half the engineer's range of vision to avoid on-track equipment and misaligned switches; or (9) assist the train if the PTC system fails en route or enters non-PTC territory. Furthermore, the research described previously suggests that because the PTC technology may require locomotive engineers to focus more of their attention on in-cab displays, it will reduce their ability to monitor activity outside the cab and raises a question about whether the engineers will lose any situational awareness in relation to the coherent mental picture (*i.e.,* the situation model) of where the engineer perceives the train to be based on prior experience. However, FRA believes that PTC offers a considerable increase in the level of safety of railroad operations and there may be some types of operations for which the use of PTC provides an adequate level of safety with a single person crew. FRA's approval of a one-person operation with PTC would most likely hinge on whether the railroad addressed foreseeable safety hazards created when a train has less than two crewmembers or when PTC fails to work properly. FRA suggests that each railroad look to the regulatory safety hazards FRA described in the background section of this proposal to see if it addressed those same hazards. For example, a railroad should anticipate that trains will need assistance protecting certain highway-rail grade crossings because of the inconvenience to highway users, emergency responders, or the general public if those crossings are blocked. A railroad that can show FRA that it has an established procedure to quickly unblock or protect crossings that would normally be protected by a second crewmember would satisfy FRA's concern. FRA also raised the concern in the background section of this proposal that a one-person crew would have greater opportunities to operate impaired by alcohol, drugs, or electronic device distraction. A railroad that requires a one-person train crew to report to a supervisor at the beginning or end of a tour of duty, or that periodically stops trains during efficiency testing to check for potential distractions, would allay those concerns. It will certainly help a railroad if it can present evidence of a strong safety culture and a compliance/accident history that compares well to other railroads in its class.

In closing, under Option 1, FRA believes a railroad can expect to receive FRA's special approval for a one-person train crew operation when the railroad has established that it: (1) Is in compliance with all rail safety laws, regulations, and orders related to the proposed one-person operation; (2) has set forth plans to address foreseeable safety hazards created when a train has less than two crewmembers by making changes to the railroad's operating rules, procedures, or practices as necessary; and (3) has an established strong safety culture and favorable compliance/accident history.

Moreover, the proposed special approval procedure is sufficiently flexible that it would allow a railroad to tailor its petition to address the specific operation for which it seeks approval. The NPRM does not suggest that PTC is a pre-condition for seeking special approval of a train operation with less than two crewmembers, and FRA is wary of creating a list where certain items may not be applicable to assuring that a particular operation reached an appropriate level of safety. Each railroad should have the ability to make its case that it has considered the unique circumstances of its operation and has tailored safeguards accordingly. The above listing of technologies and safeguards merely provides examples of items a railroad might consider implementing or utilizing based on the complexity and nature of the operation for which an exception is sought. A railroad's safety analysis of its own operation will help identify operational weaknesses and allow the railroad to choose the remedies that will allow it to assure FRA that an appropriate level of safety can be maintained with less than two train crewmembers.

Last year, BNSF and the United Transportation Union (UTU) developed the concept for a one-person operation, but the operation was voted down by UTU's members. The concept contained several positive attributes such as (1) limiting the operations to defined territories, (2) providing one-person crewmembers with regular and predictable work schedules, and (3) designing the schedules so that one-person crews would not have to spend any time away from a home terminal, thus allowing the person to sleep at home when off duty. Although FRA was consulted on this potential operation, FRA did not have an enforcement mechanism to require the parties to discuss it with FRA prior to implementation. FRA had some concerns with the logistics of the operation and whether all aspects of the operation would be in compliance with all Federal rail safety laws, regulations, and orders. Potentially, one or more

obstacles could be overcome by issuance of waivers or changes to the concept. The parties had not completely thought through some aspects of this potential operation and how potentially foreseeable emergency events would be addressed with only one crewmember. FRA viewed these obstacles as temporary roadblocks that the parties could overcome with planning and implementation of new processes. FRA's approach to the BNSF/UTU concept exemplifies how FRA views its role in this proposed rule. That is, FRA will ensure that each railroad has adequately addressed the safety concerns associated with using less than two crewmembers on a train before issuing special approval for such an operation. As BNSF and UTU showed some flexibility on considering certain aspects of the proposed operation, FRA does not believe that its concerns would have prevented the project from going forward had the UTU's members approved the operation.

Although an absolute assurance of FRA approval would certainly have benefits, the proposed requirements for petitioning FRA are not overly burdensome. FRA plans to approve operations with less than two crewmembers where a railroad provides a thorough description of that operation, has sensibly assessed the risks associated with implementing it, and has taken appropriate measures to mitigate or address any risks or safety hazards that might arise from it. A prudent railroad would consider such a safety analysis prior to implementation, with or without this proposed rule. This rulemaking merely provides FRA with the opportunity to confirm that each railroad is following a sensible business model. FRA seeks comments on its special approval procedure options and would appreciate suggestions for improving this proposed process or suggesting alternatives.

Once approved, a petition would likely be valid indefinitely. FRA does not plan to require a railroad to come in at regular intervals for extensions of the approval, as FRA does in the waiver context. A railroad that wishes to deviate from an FRA-approved petition, however, will need to come back to FRA and request approval for any modification to the operation that is not covered by the prior approval. For example, if FRA has approved a one-person operation at 25 mph and the railroad has invested resources to improve the track, the railroad would need special approval to increase the speed of that operation. The railroad would need to consider in its new petition how the dangers of possibly increasing the speed of the one-person operation have been addressed in its safety analysis.

FRA is considering whether it would be helpful to specify an electronic way to file special approval petitions and comments with FRA. One option is for FRA to require the submission of all the petitions to one docket created for the purpose, or to create a docket for each petition, at DOT's Docket Operations and at *http://www.regulations.gov.* Another option is to add to the proposed rule an option to electronically file by email or by uploading a document to a secure Web site. Under this second option, FRA would need to create an internal electronic database to track all of the petitions, comments, and FRA notifications. A third option is to publish information available via FRA's public Web site. FRA has chosen this third option as its proposal in paragraph (d) of Option 2. In paragraph (f) of Option 2, FRA has also proposed a requirement that specifies that a railroad has a duty to adhere to any conditions FRA imposes on the railroad's one-person operation. FRA may consider other options to electronically file or maintain databases of petitions for special approval. FRA would appreciate any comments suggesting preferences for any particular methods of filing and the need to specify that a railroad must adhere to any conditions imposed by FRA. However, in all instances under both co-proposal options, FRA will contact the petitioner and other interested parties whenever it denies a petition or reopens consideration of the petition. In addition, under co-proposal Option 1, FRA will also contact the petitioner and other interested parties whenever it grants a petition.

FRA is considering whether option 2 should prohibit railroads from starting operations that use fewer than two crewmembers until a public notice and comment process has occurred. For instance, for new operations, option 2 could include a 30 day delay between public notice of an operation with fewer than two crewmembers and the initiation of that operation. Such a requirement would ensure the public has had an opportunity to raise safety concerns before a new operation starts. However, it could also delay the start of more efficient train operations that do provide appropriate safety. FRA requests public comment on whether including such a prohibition in option 2 is justified. Specifically, what are the advantages and disadvantages of including such a requirement? If a delay is imposed to allow for public comment, how long should the public comment process be? Should such a requirement apply only to certain types of operations? If so, which ones? Should public notice be provided by a **Federal Register** notice, a posting on FRA's public Web site, or in some other way? What impacts would such a requirement have on railroad operations? If FRA uses the **Federal Register** to provide public notice, it could take FRA up to 60 days from receiving the description from railroads as proposed in § 218.133(a) and § 218.135(b) of option 2 to post the notice. If FRA uses its Web site to provide public notice, FRA expects that it would ordinarily provide public notices within two weeks of receiving the description from railroads as proposed in § 218.133(a) and § 218.135(b) of option 2. Should there be a requirement that FRA publicly post the railroad's submission within a certain amount of time of receiving it? If so, what is the appropriate amount of time?

Appendix A to Part 218—Schedule of Civil Penalties

If this proposed rule becomes a final rule, FRA intends to amend appendix A, the schedule of civil penalties, accordingly. This rule proposes to add a subpart to existing part 218. The existing part explains when FRA may assess a civil penalty. 49 CFR 218.9. FRA has also published the agency's policy concerning the enforcement of the Federal railroad safety laws. 49 CFR part 209, app. A.

VII. Regulatory Impact and Notices

A. Executive Order 12866, Executive Order 13563, and DOT Regulatory Policies and Procedures

This proposed rule has been evaluated in accordance with existing policies and procedures, and determined to be significant under Executive Order 12866, Executive Order 13563, and DOT policies and procedures. 44 FR 11034, Feb. 26, 1979. FRA has prepared and placed in the docket a Regulatory Impact Analysis addressing the economic impacts of this proposed rule. The RIA presents estimates of a cost range likely to occur over the first ten years of the proposed rule as well as estimates of the benefits that would be will be necessary for the proposed rule to breakeven over the same timeframe. Non-quantifiable benefits are also presented. Informed by its analysis of the economic effects of this proposed rule, FRA believes that this proposed rule will result in positive net benefits. FRA believes that the proposed rule will help ensure that train crew staffing does not result in

inappropriate levels of safety risks to railroad employees, the general public, and the environment, while allowing technology innovations to advance industry efficiency and effectiveness without compromising safety. The proposal contains minimum requirements for roles and responsibilities of the second train crewmember on certain operations and promotes safe and effective teamwork. FRA does not expect the requirements for roles and responsibilities will have any impact on existing operations because all operations that use two-person crews are compliant, however FRA requests comments on this expectation.

Compliance costs associated with this proposed rule include the addition of the labor hour equivalent of about one to two additional crewmembers nationwide to certain train movements for existing (an estimated cost of roughly $120,000 to $200,000 annually over 10 years), off-setting actions implemented by railroads because of this rule in order to use fewer than two-person crew operations, and information submission and data analysis. FRA estimated a 10-year cost range which would be between $7.65 million and $40.86 million, undiscounted. Discounted values of this range are $5.19 million and $27.72 million at the 7-percent level.

FRA expects benefits to result from improved post-accident/incident emergency response and management due to the actions of crewmembers nationwide, sustained safety resulting from the additional crew reporting troubled employees due to drug and alcohol use, and compliance with restrictions on electronic device use in place to prevent distraction, and potential avoidance of a high-consequence train accident. FRA estimates the benefit associated with sustained drug and alcohol safety levels and the level of improved emergency response necessary to break even. In addition there may be business benefits from allowing the use of innovative practices and technology to reduce crew size when safety is not compromised. As railroads methodically go through the rigor of analyzing the risk posed by crew size reductions they may also identify a larger pool of train operations for crew size reduction.

In analyzing the proposed rule, FRA has applied ''Guidance on the Economic Value of a Statistical Life in US Department of Transportation Analyses,'' July 2014. This policy updates the Value of a Statistical Life (VSL) to $9.2 million and provides guidance used to compute casualty mitigation benefits in each year of the analysis based on forecasts from the Congressional Budget Office of a 1.18 percent annual growth rate in median real wages over the next 10 years. FRA also adjusted wage based labor costs in each year of the analysis accordingly. Real wages represent the purchasing power of nominal wages. Non-wage inputs are not impacted. Labor costs and avoided injuries and fatalities, both of which in turn depend on wage rates, are key components of the costs and benefits of this proposed rule. FRA is confident that the benefits outlined in this document would exceed the costs. This rule is expected to at least break even. Preventing a single fatal injury would exceed the break-even point in the low range and 5 fatalities at the high range. Eighteen moderate injuries or four severe injuries or two critical injuries would also result in at least break even at the low range. Seventeen severe or eight critical would be the break-even minimum at the high range. The proposed rule will help ensure that train crew staffing does not result in inappropriate levels of safety risks to railroad employees, the general public, and the environment, while allowing technology innovations to advance industry efficiency and effectiveness without compromising safety. The proposal contains minimum requirements for roles and responsibilities of the second train crewmember on certain operations and promotes safe and effective teamwork. This rule would break even through prevention of a fatal injury or high-consequence accident, any one of which alone occurring over a 10-year period would justify the costs. Other accident damages may also be contained. There are several post-accident situations in which the actions of a second crewmember resulted in more timely and appropriate emergency response, which in turn likely contained the damages resulting from the accident.

FRA also conducted a sensitivity analysis using VSL of $5.2 million and $13 million. Applying a VSL of $5.2 million, avoidance of 2 fatalities, 4 severe injuries, or 7 serious injuries would justify the 10-year implementation costs. In contrast, applying a VSL of $13 million, avoidance of 1 critical injury, 1 fatality, 2 severe injuries, or 4 serious injuries would justify the 10-year implementation costs.

Given the risk associated with single train crews operating trains carrying high risk commodities, FRA believes it is reasonable to expect that consideration of crew staffing level impacts on safety and implementation of any necessary mitigation to help ensure risk is appropriately mitigated will yield safety benefits that will exceed the costs.

FRA conducted sensitivity analysis of its first co-proposal using a 20-year time horizon. FRA estimates that the cost range of its co-proposal would be $7.44 million to $36.25 million over this timeframe using a 7-percent discount rate, and $11.94 million to $50.71 million using a 3-percent discount rate.

Alternatives

FRA invites public comments on alternatives to the co-proposals and information collection proposals. One alternative is for FRA to not require railroads using or aspiring to use less than two person crews to attest but establish a data-collection process in which FRA would collect the data necessary to identify problematic one-person operations, conduct further review of an operation if warranted by the data, and use existing emergency authority to take action against an unsafe one-person crew operation. The advantages of this alternative is that it would provide FRA comprehensive information about one-person crew operations and allow railroads the flexibility to continue or start up less than two-person crews without incurring the cost of FRA approval.

Another alternative is to adopt the above alternative and also require FRA approval only for one-person operations carrying certain amounts of hazardous materials. Transport Canada adopted a similar approach except that it banned use of less than two-person crews on all trains carrying dangerous goods. The advantage of this alternative is that it would provide FRA comprehensive information about one-person crew operations and require FRA approval of the most high risk trains: Those carrying hazardous materials.

A third alternative is to adopt the first alternative and also require a special approval process for all aspiring less than two person crew operations operating in high-threat urban areas and carrying certain amounts of hazardous materials. The advantages of this alternative is that it would provide FRA comprehensive information about one-person crew operations, allow FRA to intervene against problematic crews, and allow one-person crew operations to continue or start up without FRA approval as long as they do not operate in places where large numbers of people congregate.

B. Regulatory Flexibility Act and Executive Order 13272

To ensure that the impact of this rulemaking on small entities is properly considered, FRA developed this proposed rule in accordance with Executive Order 13272 (''Proper Consideration of Small Entities in Agency Rulemaking'') and DOT's policies and procedures to promote compliance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The Regulatory Flexibility Act requires an agency to review regulations to assess their impact on small entities. An agency must conduct a regulatory flexibility analysis unless it determines and certifies that a rule is not expected to have a significant economic impact on a substantial number of small entities.

As discussed in the preamble above, FRA is proposing to establish a regulation with minimum requirements for the size of train crew staffs depending on the type of operation. A minimum requirement of two crewmembers is proposed for those operations that pose significant safety risks to railroad employees, the general public, and the environment. This proposed rule would also establish minimum requirements for the roles and responsibilities of the second train crewmember on a moving train, and promote safe and effective teamwork. FRA is certifying that this proposed rule will result in ''no significant economic impact on a substantial number of small entities.'' The following section explains the reasons for this certification.

Description of Regulated Entities and Impacts

The ''universe'' of the entities under consideration includes only those small entities that can reasonably be expected to be directly affected by the provisions of this rule. In this case, the ''universe'' will be Class III freight railroads that carry out train operations with one-person crews.

The U.S. Small Business Administration (SBA) stipulates in its ''Size Standards'' that the largest a railroad business firm that is ''for-profit'' may be, and still be classified as a ''small entity,'' is 1,500 employees for ''Line Haul Operating Railroads'' and 500 employees for ''Switching and Terminal Establishments.'' ''Small entity'' as defined by the SBA is a small business that is independently owned and operated, and is not dominant in its field 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.

Federal agencies may adopt their own size standards for small entities in consultation with SBA and in conjunction with public comment. Pursuant to that authority, FRA has published a final policy that formally establishes ''small entities'' as railroads which meet the line haulage revenue requirements of a Class III railroad.[5] The revenue requirements are currently $20 million or less in annual operating revenue. The $20 million-limit (which is adjusted by applying the railroad revenue deflator adjustment)[6] is based on the Surface Transportation Board's (STB) threshold for a Class III railroad carrier. FRA is using the STB's threshold in its definition of ''small entities'' for this rule.

There are about 671 Class III railroads on the general system of rail transportation that this proposed rule would apply to resulting in costs associated with adding a second crewmember to train operations under proposed § 218.125 if they do not qualify for an exception under proposed §§ 218.127 or 218.131. Based on information available from the internal regional survey regarding railroad eligibility for exception, and crew size for Class III railroads, coupled with information in the 2011 waybill sample regarding railroads with one-person operations carrying high hazard commodities, FRA estimates that at least 88.9 percent of the affected Class III railroads would be able to qualify for one of the proposed exceptions. Class III railroads moving the high-risk commodities in quantities described in proposed § 218.125(c)(1)–(2) would not qualify for the exception and would be required to add a second crewmember and be impacted by the proposed regulation.

Seventy-five Class III railroads (11.1 percent) would not qualify for an exception based on operating speed and key train operations. Fourteen Class III railroads operate with single-person crews and could be impacted to the extent they carry high risk commodities. FRA estimates that Class III railroads with single-person crews that do not qualify for an exception and will incur regulatory costs associated with an estimated average of an additional 241 labor-hours per year to add a second crewmember. The actual level of increase would vary proportionally with the level of riskier products carried and may represent a different portion of total operations depending on the level of overall operations. Information from FRA's internal survey indicates that the 14 Class III railroads with single-crew operations have annual operations totaling an average of 73,491 labor-hours. Based on the 241 labor-hours per year average cost this means that impacted railroads would have to increase train crew costs by 0.33 percent (0.33 percent increase in labor hours) on average. Based on information available regarding eligibility for exception, and crew size coupled with information in the 2011 waybill sample regarding railroads with one-person operations carrying crude oil or ethanol, FRA believes that three to five Class III railroads would thus be impacted by the proposed rulemaking. These results indicate that the proposed rulemaking will not result in a significant economic impact on a substantial number of small entities.

In addition, FRA notes that several of the 14 Class III railroads with single-person operations are subsidiaries of much larger Class I railroads or well-established holding companies that have revenues in excess of the adjusted $20 million threshold for this analysis.

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), the FRA Administrator certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities. FRA requests comment on both this analysis and this certification, and its estimates of the impacts on small railroads.

C. Paperwork Reduction Act

The information collection requirements in this proposed rule are being submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* The sections that contain the current and new information collection requirements are detailed below, and the estimated time to fulfill each requirement is as follows:

[5] *See* 68 FR 24891, May 9, 2003; 49 CFR part 209, app. C.

[6] For further information on the calculation of the specific dollar limit, please see 49 CFR part 1201.

CFR section/subject	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
217.7—Copy—FRA—Operating rules, timetables, Class I & II RRs.	2 new railroads	2 submission	1 hour	2
—Amendments/Revisions	55 railroads	165 revisions	20 minutes	55
—Copy of operating rules/timetables, etc. by Class III.	5 new railroads	5 submission	55 minutes	5
—Amendments/Revisions by Class III Railroads.	673 railroads	2,019 rev./amendments	15 minutes	505
217.9—RR Testing Officer Qualification.				
—Records of Qualification	722 railroads	4,732 records	2 minutes	158
—Written Prog. of Operational Tests	5 new railroads	5 programs	9.92 hours	50
—Records of Operational Tests/Inspections	722 railroads	9,188,700 rcd	5 minutes	765,725
—Amendments/Revisions	55 railroads	165 revisions	70 minutes	193
—Quarterly Review of Accident/Incident Data/Prior Op. Tests/Inspections.	722 railroads	140 reviews	2 hours	280
—Designated Officers & Conduct of 6 Month Review.	722 railroads	70 IDs + 140 reviews	5 seconds + 2 hours	280
—Designated Officers & Conduct of Six Month Review by Passenger/Commuter Railroads.	Amtrak + 23 Railroads	27 IDs + 54 Reviews	5 second + 2 hours	108
—Records of Periodic Reviews	722 railroads	334 records	1 minute	6
—Annual Summary on Operational Tests/Insp.	61 railroads	97 summary records	61 minutes	99
—FRA Disapproval of RR Program of Operational Tests/Insp. & Response by RR.	722 railroads	5 supporting documents	1 hour	5
—Amended Program Documents	722 railroads	5 amended documents	30 minutes	3
217.11—Periodic Instruction of Program Employees on Oper. Rules.	722 railroads	130,000 instr. employees.	8 hours	1,040,000
—New RR—Development of Program of Operating Rules Instruction.	5 new railroads	5 Programs	8 hours	40
—Amendments/Revisions to Operating Rules Instruction Program.	722 railroads	110 revisions	30 minutes	55
218.95—Instruction, Training, Examination—Records.	722 railroads	98,000 record	5 minutes	8,167
—Response to FRA Disapproval of Program (Written or Oral Submission).	722 railroads	5 responses	1 hour	5
—Programs Needing Amendment	722 railroads	5 amended programs	30 minutes	3
218.97—Written Procedures on Good Faith Challenges by Employees Re: Actions.	722 railroads	Already completed	N/A	N/A
—Employee Copy of Written Procedures	722 railroads	4,732 copies	6 minutes	473
—Good Faith Challenges by RR Employees	98,000 Employees	15 challenges	10 minutes	3
—RR Responses to Employee Challenge	722 railroads	15 responses	5 minutes	1
—Immediate Review of Employee Challenge.	722 railroads	5 immediate reviews	30 minutes	3
—RR Officer Explanation of Federal Law Protection Against Retaliation.	722 railroads	5 explanation	1 minute	.08
—Documented Protest by RR Employee	722 railroads	10 written protests	15 minutes	3
—Copies of Protests	722 railroads	10 copies	1 minute	.17
—Further Reviews	722 railroads	3 reviews	15 minutes	1
—Written Verification Decision to Employee	722 railroads	10 decisions	10 minutes	2
—Copy of Written Procedures at RR Headquarters.	722 railroads	722 copies of procedures.	5 minutes	60
—Copy of Verification Decision at RR Headquarters & Division Headquarters.	722 railroads	20 copies	5 minutes	2
218.99—Shoving or Pushing Movements.				
—Operating Rule Modifications	722 railroads	36 revisions	1 hour	36
—Locomotive Engineer Job Briefing Before Movement.	100,000 Employees	180,000 job briefings	1 minute	3,000
—Point Protection Determinations & Signals/Instructions to Control Movements.	100,000 Employees	87,600,000 decisions + 87,600,000 signals.	1 minute + 1 minute	2,920,000
—Remote Control Movements- Verbal Confirmation.	100,000 Employees	876,000 oral confirmations.	1 minute	14,600
—Remote Control Determinations That Zone Is Not Jointly Occupied/Track Clear.	100,000 Employees	876,000 RC determination.	1 minute	14,600
—Dispatcher Authorized Train Movements	6,000 Railroad Dispatchers.	30,000 auth. movements.	1 minute	500
218.101—Operating Rule Re: Leaving Rolling & On-Track MOW Equipment in the Clear.	722 railroads	36 amended op. rules	30 minutes	18
218.103—Hand-Operated Switches—RR Operating Rule That Complies w/49 CFR 218.103.	722 railroads	36 modified operating rules.	1 hour	36
—Specification of Minimum Job Briefing Requirements.	722 railroads	5 modified op. rules	30 minutes	3
—Employee Operating or Verifying Position of Hand-operated Switches: Job Briefings.	722 railroads	1,125,000 job briefings	1 minute	18,750

CFR section/subject	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
218.105—Additional Requirements for Hand Operated Main Track Switches—Job Briefing.	722 railroads	60,000 job briefings	1 minute	1,000
—Roadway Worker Report on Position of Switches to Roadway Worker in Charge (RWIC) or Designated Employee Conveying Information to RWIC.	722 railroads	100,000 reports + 100,000 conveyances.	1 minute + 1 minute	3,334
—Dispatcher Acknowledgment of Switch Position and Employee Confirmation to Train Dispatcher.	722 railroads	60,000 acknowledgments + 60,000 confirmations.	30 seconds + 5 seconds.	583
218.109—Hand Operated Fixed Derails: Job Briefings.	722 railroads	562,500 job briefings	30 seconds	4,688
Subpart G—New Requirements:				
—218.125—Adoption/Revision of RR Rules/Practices to comply with this Subpart.	722 railroads	10 adopted/revised rules.	3 hours	30
—218.133—Continuance of Operations Staffed without a Two-Person Crew Prior to Jan. 1, 2015—Description by RR of One-Person Crew Operation.	629 railroads (FRA obtained this number by consulting with the ASLRRA, AAR, and APTA.).	7 description	960 hours	6,720
—218.135—Request for Special Approval of a Start-Up Method of Operation that Does not Meet Subpart G Requirements.	629 railroads	10 petitions	384 hours	3,840
—Request for Special Approval of a Start-Up Method of Operation that Does not Meet Subpart.	629 railroads	5 petitions	192 hours	960
—Comments Sent to FRA on Petitions for Special Approval.	General Public/RR Community/Interested Parties.	30 comments	22 hours	660
—Commenter Certification that Copy of Comment has been Served on Each Petitioner.	General Public/RR Community/Interested Parties.	30 statement + 450 copies of comment.	30 minutes + 2 minutes	30

All estimates include the time for reviewing instructions, searching existing data sources, gathering or maintaining the needed data, and reviewing the information. Pursuant to 44 U.S.C. 3506(c)(2)(B), FRA solicits comments concerning: whether these information collection requirements are necessary for the proper performance of the functions of FRA, including whether the information has practical utility; the accuracy of FRA's estimates of the burden of the information collection requirements; the quality, utility, and clarity of the information to be collected; and whether the burden of collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology, may be minimized.

Organizations and individuals desiring to submit comments on the collection of information requirements or associated estimates detailed above should direct them to Mr. Robert Brogan, Information Collection Officer, Office of Railroad Safety, or Ms. Kimberly Toone, Records Management Officer, Office of Administration, Federal Railroad Administration, 1200 New Jersey Avenue SE., 3rd Floor, Washington, DC 20590. Comments may also be submitted via email to Mr. Brogan or Ms. Toone at the following addresses: *Robert.Brogan@dot.gov* or *Kim.Toone@dot.gov.*

OMB is required to make a decision concerning the collection of information requirements contained in this proposed rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

FRA is not authorized to impose a penalty on persons for violating information collection requirements which do not display a current OMB control number, if required. FRA intends to obtain current OMB control numbers for any new information collection requirements resulting from this rulemaking action prior to the effective date of the final rule. The OMB control number, when assigned, will be announced by separate notice in the **Federal Register**.

D. Federalism Implications

Executive Order 13132, ''Federalism'' (64 FR 43255, Aug. 10, 1999), requires FRA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' are defined in the Executive Order to include regulations that 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.'' Under Executive Order 13132, the agency may not issue a regulation with federalism implications that imposes substantial direct compliance costs and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, the agency consults with State and local governments, or the agency consults with State and local government officials early in the process of developing the regulation. Where a regulation has federalism implications and preempts State law, the agency seeks to consult with State and local officials in the process of developing the regulation.

This NPRM has been analyzed in accordance with the principles and criteria contained in Executive Order 13132. This NPRM would not have a substantial effect on the States or their political subdivisions; it would not impose any compliance costs; and it

would not affect the relationships between the Federal government and the States or their political subdivisions, or the distribution of power and responsibilities among the various levels of government. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

However, this NPRM could have preemptive effect by operation of law under certain provisions of the Federal railroad safety statutes, specifically the former Federal Railroad Safety Act of 1970, repealed and recodified at 49 U.S.C. 20106. Section 20106 provides that States may not adopt or continue in effect any law, regulation, or order related to railroad safety or security that covers the subject matter of a regulation prescribed or order issued by the Secretary of Transportation (with respect to railroad safety matters) or the Secretary of Homeland Security (with respect to railroad security matters), except when the State law, regulation, or order qualifies under the ''essentially local safety or security hazard'' exception to section 20106.

In summary, FRA has analyzed this final rule in accordance with the principles and criteria contained in Executive Order 13132. As explained above, FRA has determined that this NPRM has no federalism implications, other than the possible preemption of State laws under Federal railroad safety statutes, specifically 49 U.S.C. 20106. Accordingly, FRA has determined that preparation of a federalism summary impact statement for this NPRM is not required.

E. International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards.

This NPRM is purely domestic in nature and is not expected to affect trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States.

F. Environmental Impact

FRA has evaluated this NPRM in accordance with the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), other environmental statutes, related regulatory requirements, and its ''Procedures for Considering Environmental Impacts'' (FRA's Procedures) (64 FR 28545, May 26, 1999). FRA has determined that this NPRM is categorically excluded from detailed environmental review pursuant to section 4(c)(20) of FRA's Procedures, ''Promulgation of railroad safety rules and policy statements that do not result in significantly increased emissions of air or water pollutants or noise or increased traffic congestion in any mode of transportation.'' *See* 64 FR 28547, May 26, 1999. Categorical exclusions are actions identified in an agency's NEPA implementing procedures that do not normally have a significant impact on the environment and therefore do not require either an environmental assessment (EA) or environmental impact statement (EIS). *See* 40 CFR 1508.4.

In analyzing the applicability of a categorical exclusion, the agency must also consider whether extraordinary circumstances are present that would warrant the preparation of an EA or EIS. *Id.* In accordance with section 4(c) and (e) of FRA's Procedures, the agency has further concluded that no extraordinary circumstances exist with respect to this regulation that might trigger the need for a more detailed environmental review (EA or EIS). The purpose of this rulemaking is to establish minimum requirements for the size of train crew staffs depending on the type of operation. FRA does not anticipate any environmental impacts from this requirement and finds that there are no extraordinary circumstances present in connection with this NPRM.

G. Unfunded Mandates Reform Act of 1995

Pursuant to section 201 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 2 U.S.C. 1531), each Federal agency ''shall, unless otherwise prohibited by law, assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector (other than to the extent that such regulations incorporate requirements specifically set forth in law).'' Section 202 of the Act (2 U.S.C. 1532) further requires that ''before promulgating any general notice of proposed rulemaking that is likely to result in the promulgation of any rule that includes any Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any 1 year, and before promulgating any final rule for which a general notice of proposed rulemaking was published, the agency shall prepare a written statement.'' This details the effect on State, local, and tribal governments and the private sector. For the year 2010, this monetary amount of $100,000,000 has been adjusted to $143,100,000 to account for inflation. This NPRM would not result in the expenditure of more than $143,100,000 by the public sector in any one year, and thus preparation of such a statement is not required.

H. Energy Impact

Executive Order 13211 requires Federal agencies to prepare a Statement of Energy Effects for any ''significant energy action.'' 66 FR 28355, May 22, 2001. Under the Executive Order, a ''significant energy action'' is defined as any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking: (1)(i) That is a significant regulatory action under Executive Order 12866 or any successor order, and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. FRA has evaluated this NPRM in accordance with Executive Order 13211. FRA has determined that this NPRM is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Consequently, FRA has determined that this NPRM is not a ''significant energy action'' within the meaning of Executive Order 13211.

I. Privacy Act

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477). 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.*

List of Subjects in 49 CFR Part 218

Occupational safety and health, Penalties, Railroad employees, Railroad safety, Reporting and recordkeeping requirements.

The Proposed Rule

For the reasons discussed in the preamble, FRA proposes to amend chapter II, subtitle B of title 49 of the Code of Federal Regulations as follows:

PART 218—[AMENDED]

■ 1. The authority citation for part 218 is revised to read as follows:

Authority: 49 U.S.C. 20103, 20107; 28 U.S.C. 2461, note; and 49 CFR 1.89.

Subpart A—General

■ 2. Section 218.5 is amended by adding definitions in alphabetical order for ''Associate Administrator'' and ''FTA'', to read as follows:

§ 218.5 Definitions.

* * * * *

Associate Administrator means the Associate Administrator for Railroad Safety and Chief Safety Officer of the Federal Railroad Administration or that person's delegate as designated in writing.

* * * * *

FTA means the Federal Transit Administration.

* * * * *

■ 3. Add subpart G to part 218 to read as follows:

Subpart G—Train Crew Staffing

Sec.

218.121 Purpose and scope.
218.123 Definitions.
218.125 General crew staffing and roles and responsibilities of the second crewmember for freight and passenger trains.
218.127 General exceptions to two-person crew requirement.
218.129 Specific passenger train exceptions to two-person crew requirement.
218.131 Specific freight train exceptions to two-person crew requirement.
218.133 Continuance of freight operations staffed without a two-person train crew prior to January 1, 2015.
218.135 Special approval procedure.

Subpart G—Train Crew Staffing

§ 218.121 Purpose and scope.

(a) The purpose of this subpart is to ensure that each train is adequately staffed and has appropriate safeguards in place when using fewer than two person crews for safe train operations.

(b) This subpart prescribes minimum requirements for the size of different train crew staffs depending on the type of operation. The minimum crew staffing requirements reflect the safety risks posed to railroad employees and the general public. This subpart also prescribes minimum requirements for the appropriate roles and responsibilities of train crewmembers on a moving train, and promotes safe and effective teamwork. Each railroad may prescribe additional or more stringent requirements in its operating rules, timetables, timetable special instructions, and other instructions.

§ 218.123 Definitions.

Tourist, scenic, historic, or excursion operations that are not part of the general railroad system of transportation means a tourist, scenic, historic, or excursion operation conducted only on track used exclusively for that purpose (*i.e.,* there is no freight, intercity passenger, or commuter passenger railroad operation on the track).

Trailing tons means the sum of the gross weights—expressed in tons—of the cars and the locomotives in a train that are not providing propelling power to the train.

Train means one or more locomotives coupled with or without cars, except during switching service.

Switching service means the classification of rail cars according to commodity or destination; assembling of cars for train movements; changing the position of cars for purposes of loading, unloading, or weighing; placing of locomotives and cars for repair or storage; or moving of rail equipment in connection with work service that does not constitute a train movement.

§ 218.125 General crew staffing and roles and responsibilities of the second crewmember for freight and passenger trains.

(a) *General.* Each railroad shall comply with the requirements of this subpart, and in doing so may adopt its own rules or practices. When any person as defined in § 218.9 (including, but not limited to, each railroad, railroad officer, supervisor, and employee) violates any requirement of a railroad rule or practice that ensures compliance with the requirements of this subpart, that person shall be considered to have violated the requirements of this subpart.

(b) *Two-person crew staffing requirement.* Except as provided for in this subpart, each train shall be assigned a minimum of two crewmembers.

(c) *Hazardous material two crewmember minimum requirement.* For the purposes of this paragraph, a tank car containing a ''residue'' of a hazardous material as defined in 49 CFR 171.8 is not considered a loaded car. None of the exceptions provided in §§ 218.127 through 218.135, which permit a train to be staffed with less than two crewmembers, is applicable when any train is transporting:

(1) One or more loaded freight cars containing materials poisonous by inhalation as defined in 49 CFR 171.8, including anhydrous ammonia (UN 1005) and ammonia solutions (UN 3318); or

(2) Twenty or more loaded freight cars or freight cars loaded with bulk packages as defined in 49 CFR 171.8 or intermodal portable tanks containing any combination of materials listed in paragraph (c)(1) of this section, or any Division 2.1 flammable gases, Class 3 flammable liquids, Class 1.1 or 1.2 explosives, or hazardous substances listed in 49 CFR 173.31(f)(2).

(d) *Roles and responsibilities of the second crewmember when the train is moving.* A train crewmember that is not operating the train may be located anywhere outside of the operating cab of the controlling locomotive when the train is moving as long as:

(1) For each train, the train crewmember is on the train, except when the train crewmember cannot perform the duties assigned without temporarily disembarking from the train;

(2) The train crewmember has the ability to directly communicate with the crewmember in the cab of the controlling locomotive;

(3) The train crewmember can continue to perform the duties assigned; and

(4) The location does not violate any Federal railroad safety law, regulation or order.

§ 218.127 General exceptions to two-person crew requirement.

Except as provided for in § 218.125(c), the following general exceptions apply to the two-person crew staffing and roles and responsibilities requirements in § 218.125. A passenger or freight train does not require a minimum of two crewmembers under the following conditions:

(a) *Helper service.* The train is performing helper service, thereby using a locomotive or group of locomotives to assist another train that has incurred mechanical failure or lacks the power to traverse difficult terrain. Helper service includes traveling to or from a location where assistance is provided;

(b) *Tourist.* The train is a tourist, scenic, historic, or excursion operation that is not part of the general railroad system of transportation;

(c) *Lite locomotive.* A locomotive or a consist of locomotives not attached to any piece of equipment or attached only to a caboose. This exception excludes a diesel or electric multiple unit (DMU or EMU) operation;

(d) *Work train.* During work train operations where a non-revenue service train of 4,000 trailing tons or less is used for the administration and upkeep service of the railroad. The exception for work trains engaged in maintenance and repair activities on the railroad includes when the work train is traveling to or from a work site; or

(e) *Remote control operations.* The train is remotely controlled using the operator control unit assigned to the receiver on the controlling locomotive and the following conditions apply:

(1) The locomotive consist does not exceed 6,000 total working horsepower and is utilizing no more than 12 powering axles;

(2) The train length, excluding locomotives, does not exceed 3,000 feet;

(3) The train tonnage, excluding locomotives, does not exceed 4,000 tons;

(4) The train does not exceed a total of 50 conventional cars or platforms, in any combination;

(5) The train does not contain more than 20 multilevel cars, *e.g.,* autorack cars, regardless of whether they are loaded or empty. Any continuous block of more than five multilevel cars must be placed at the rear of the train;

(6) The maximum authorized train speed is 15 miles per hour;

(7) Movements are restricted from operating on any grade greater than 1.0 percent that extends for more than half a mile; and

(8) The controlling railroad has developed air brake and train handling instructions governing these operations, and the remote control operator is required to comply with those instructions.

§ 218.129 Specific passenger train exceptions to two-person crew requirement.

The following passenger train operations do not require a minimum of two crewmembers:

(a) A passenger train operation in which cars are empty of passengers and are being moved for purposes other than to pick up or drop off passengers;

(b) A passenger train operation involving a single self-propelled car or married-pair unit, *e.g.,* a diesel or electric multiple unit (DMU or EMU) operation, where the locomotive engineer has direct access to the passenger seating compartment and (for passenger railroads subject to 49 CFR part 239) the passenger railroad's emergency preparedness plan for this operation is approved under 49 CFR 239.201; or

(c) A rapid transit operation in an urban area, *i.e.,* an urban rapid transit system or a light rail transit operator that is connected with the general railroad system of transportation under the following conditions:

(1) The operation is temporally separated from any conventional railroad operations;

(2) There is an FTA-approved and designated State Safety Oversight (SSO) Agency that is qualified to provide safety oversight; and

(3) The light rail operator has an FTA/SSO approved System Safety Plan in accordance with 49 CFR part 659.

§ 218.131 Specific freight train exceptions to two-person crew requirement.

Except as provided for in § 218.125(c), the following specific freight train operations are exceptions from the two-person crew staffing and roles and responsibilities requirements in § 218.125.

(a) *Small railroad exceptions.* A freight train is operated on a railroad and by an employee of a railroad with less than 400,000 total employee work hours annually and the train is being operated under the following conditions:

(1) The maximum authorized speed of the train is limited to 25 miles per hour or less; and

(2)(i) The average grade of any segment of the track operated over is less than 1 percent over 3 continuous miles or 2 percent over 2 continuous miles; or

(ii) A second train crewmember, other than the locomotive engineer, is intermittently assisting the train's movements and has the ability to directly communicate with the crewmember in the cab of the controlling locomotive. The second train crewmember cannot meet the requirements in § 218.125 regarding the roles and responsibilities of the second crewmember because this person is frequently in transit and cannot continuously remain with the train.

(b) *Mine load out, plant dumping, or similar operation.* A freight train is being loaded or unloaded in an assembly line manner at an industry while the train moves at 10 miles per hour or less.

Option 1

§ 218.133 Continuance of freight operations staffed without a two-person train crew prior to January 1, 2015.

(a) Except as provided for in § 218.125(c), one-person freight train operations that were conducted prior to January 1, 2015, and that are not otherwise covered by the general or specific exceptions detailed in §§ 218.127 through 218.131 may continue to be conducted as long as the railroad conducting the one-person operation submits a description of the operation to the Associate Administrator for Railroad Safety and Chief Safety Officer, Federal Railroad Administration, 1200 New Jersey Avenue SE., Washington, DC 20590 no later than [DATE 90 DAYS AFTER EFFECTIVE DATE OF THE FINAL RULE]. The description of the operation shall, at a minimum, include the following:

(1) The location of the continuing operation with as much specificity as can be provided as to industries served, and territories, divisions, or subdivisions operated over. Documentation supporting the locations of prior operations will be favorably reviewed, although not required;

(2) The class of tracks operated over;

(3) The locations of any track where the average grade of any segment of the track operated over is 1 percent or more over 3 continuous miles or 2 percent or more over 2 continuous miles;

(4) The maximum authorized speed of the operation;

(5) The approximate average number of miles and hours a single person operates as a one-person train crew;

(6) Whether any limitations are placed on a person in a one-person train crew operation. Such limitations may include, but are not limited to, a maximum number of miles or hours during a single tour of duty;

(7) The maximum number of cars and tonnage, if any;

(8) Whether the one-person operation is permitted to haul hazardous materials of any quantity and type, other than those types expressly prohibited for one-person train crew operations in accordance with § 218.125(c);

(9) Information regarding other operations that travel on the same track as the one-person train operation or that travel on an adjacent track. Such information shall include, but is not limited to, the volume of traffic and the types of opposing moves (*i.e.,* either passenger or freight trains hauling hazardous materials);

(10) Any information the railroad chooses to provide describing protections provided in lieu of a second train crewmember; and

(11) A safety analysis of the one-person train operation, including any information regarding the safety history of the operation.

(b) FRA intends to issue written notification of approval or disapproval within 90 days of receipt of the submission. FRA reserves the right to notify a railroad if a described operation that was in existence prior to January 1, 2015, is deemed unsuitable for continuance, or may continue with any additional conditions attached. FRA will consider the benefits and costs of actions it requests railroads to make as a condition for FRA approval. Unless FRA notifies a railroad that an operation is deemed unsuitable for continuance or may only continue with any additional conditions attached, the railroad may continue the operation as described. If FRA notifies a railroad that an operation may not continue, FRA will provide the railroads the specific reason(s) and rationale for any such decision.

§ 218.135 Special approval procedure.

(a) *General.* The following procedures govern consideration and action upon requests for special approval of a start-up method of train operation that does not meet the requirements and conditions of §§ 218.125 through 218.133. Passenger railroads seeking to start-up a one-person train operation must have an approved passenger train emergency preparedness plan or apply for a waiver under part 239 of this chapter but may apply to FRA for special approval under this section in the same filing.

(b) *Petitions for special approval of a train operation with less than two crewmembers.* Each petition for special approval of a train operation with less than two crewmembers that does not meet the requirements and conditions of §§ 218.125 through 218.133 shall contain:

(1) The name, title, address, telephone number, and email address (if available) of the primary person to be contacted with regard to review of the petition;

(2) A detailed description of the train operation proposed, including a description of any technology that could potentially perform tasks typically performed by a second crewmember or that could prevent or significantly mitigate the consequences of catastrophic accidents;

(3) Appropriate data or analysis, or both, for FRA to consider in determining whether the train operation proposed will provide at least an appropriate level of safety to a train operation with two crewmembers; and

(4) A statement affirming that the railroad has served a copy of the petition on the president of each labor organization that represents the railroad's employees subject to this part, if any, together with a list of the names and addresses of the persons served.

(c) *Service.* Each petition for special approval under paragraph (b) of this section shall be submitted to the Associate Administrator for Railroad Safety and Chief Safety Officer, Federal Railroad Administration, 1200 New Jersey Avenue SE., Washington, DC 20590.

(d) ***Federal Register*** *notice.* FRA will publish a notice in the **Federal Register** concerning each petition under paragraph (b) of this section.

(e) *Comment.* Not later than 30 days from the date of publication of the notice in the **Federal Register** concerning a petition under paragraph (b) of this section, any person may comment on the petition.

(1) A comment shall set forth specifically the basis upon which it is made, and contain a concise statement of the interest of the commenter in the proceeding.

(2) The comment shall be submitted to the Associate Administrator for Railroad Safety and Chief Safety Officer, Federal Railroad Administration, 1200 New Jersey Avenue SE., Washington, DC 20590.

(3) The commenter shall certify that a copy of the comment was served on each petitioner.

(f) *Disposition of petitions.* (1) If FRA finds that the petition is acceptable and justified, the petition will be granted, normally within 90 days of its receipt. FRA's decision may attach additional conditions that a railroad must meet or exceed before implementing the operation as described. FRA will consider the benefits and costs of any actions it requests a petitioner to make as a condition for FRA approval, as well as the expected safety impacts. If FRA attaches conditions, it will provide the petitioner and the public, via its public Web site, with the specific reasons and rationale for those conditions.

(2) If the petition is neither granted nor denied within 90 days, the petitioner may file a request for FRA to decide the petition by no later than 30 days from the date FRA receives such a request. If this additional 30 days lapses without FRA issuing a decision, the railroad may implement the operation as described.

(3) If FRA finds that the petition does not comply with the requirements of this section and that the proposed train operation is not acceptable or justified, the petition will be denied. FRA will provide the petitioner and the public, via its public Web site, with the specific reasons and rationale for denying the petition.

(4) Following the approval of a petition, FRA may reopen consideration of the petition for cause.

(5) When FRA grants or denies a petition, or reopens consideration of the petition, written notice is sent to the petitioner and other interested parties.

Option 2

§ 218.133 Continuance of freight operations staffed without a two-person train crew prior to January 1, 2015.

(a) Except as provided for in § 218.125(c), one-person freight train operations that were conducted prior to January 1, 2015 and that are not otherwise covered by the general or specific exceptions detailed in §§ 218.127 through 218.131 may continue to be conducted as long as the railroad conducting the one-person operation submits a description of the operation to the Associate Administrator for Railroad Safety and Chief Safety Officer, Federal Railroad Administration, 1200 New Jersey Avenue SE., Washington, DC 20590 no later than [DATE 90 DAYS AFTER EFFECTIVE DATE OF THE FINAL RULE]. The description of the operation shall, at a minimum, include the following:

(1) The location of the continuing operation with as much specificity as can be provided as to industries served, and territories, divisions, or subdivisions operated over.

(2) The class of tracks operated over;

(3) The locations of any track where the average grade of any segment of the track operated over is 1 percent or more over 3 continuous miles or 2 percent or more over 2 continuous miles;

(4) The maximum authorized speed of the operation;

(5) The approximate average number of miles and hours a single person operates as a one-person train crew;

(6) Whether any limitations are placed on a person in a one-person train crew operation. Such limitations may include, but are not limited to, a maximum number of miles or hours during a single tour of duty;

(7) The maximum number of cars and tonnage, if any;

(8) Whether the one-person operation is permitted to haul hazardous materials of any quantity and type, other than those types expressly prohibited for one-person train crew operations in accordance with § 218.125(c);

(9) Information regarding other operations that utilize the same track as the one-person train operation or that travel on an adjacent track. Such information shall include, but is not limited to, the volume of traffic and the types of opposing moves (*i.e.,* either

passenger or freight trains hauling hazardous materials);

(10) Any information the railroad chooses to provide describing protections provided in lieu of a second train crewmember; and

(11) A safety analysis of the one-person train operation shall be conducted and made available to FRA upon request during an investigation described in paragraph (b) of this section, including any information regarding the safety history of the operation.

(b) A railroad may continue any one-person train operations that were conducted prior to January 1, 2015, upon filing the description of each operation with FRA. FRA will use the description as part of an evaluation to determine whether the railroad is providing an appropriate level of safety. Depending on a variety of factors, including FRA's familiarity with the railroad's one-person operation and the risk factors associated with the operation, FRA may initiate an investigation to aid in the determination. If FRA determines that an operation is not providing an appropriate level of safety, FRA will notify the railroad that the operation shall not continue or shall only continue under certain conditions. FRA will consider the benefits and costs of actions it requests railroads to make as a condition for the operation to continue. If FRA notifies a railroad that an operation shall not continue, or shall continue only if conditions are met, FRA will provide the railroad and the public, via its public Web site, the specific reason(s) and rationale for the decision.

(c) A railroad shall adhere to the restrictions, limitations, and procedures it identifies in its submission to FRA as well as any condition imposed by FRA.

§ 218.135 Special approval procedure.

(a) *General.* The following procedures govern a start-up method of train operation that does not meet the requirements and conditions of §§ 218.125 through 218.133. Passenger railroads seeking to start-up a one-person train operation must have an approved passenger train emergency preparedness plan or apply for a waiver under part 239 of this chapter but may apply to FRA for special approval under this section in the same filing.

(b) *Description of a train operation with less than two crewmembers.* A railroad initiating a train operation with less than two crewmembers that does not meet the requirements and conditions of §§ 218.125 through 218.133 shall provide FRA with the name, title, address, telephone number, and email address (if available) of the primary person to be contacted with regard to the operation. The railroad shall submit a detailed description of each train operation with less than two crewmembers prior to beginning such service, which covers:

(1) Any technology that could potentially perform tasks typically performed by a second crewmember or that could prevent or significantly mitigate the consequences of catastrophic accidents;

(2) The class of tracks operated over;

(3) The locations of any track where the average grade of any segment of the track operated over is 1 percent or more over 3 continuous miles or 2 percent or more over 2 continuous miles;

(4) The maximum authorized speed of the operation;

(5) The approximate average number of miles and hours a single person operates as a one-person train crew;

(6) Whether any limitations are placed on a person in a one-person train crew operation. Such limitations may include, but are not limited to, a maximum number of miles or hours during a single tour of duty;

(7) The maximum number of cars and tonnage, if any;

(8) Whether the one-person operation is permitted to haul hazardous materials of any quantity and type, other than those types expressly prohibited for one-person train crew operations in accordance with § 218.125(c);

(9) Information regarding other operations that utilize the same track as the one-person train operation or that travel on an adjacent track. Such information shall include, but is not limited to, the volume of traffic and the types of opposing moves (*i.e.,* either passenger or freight trains hauling hazardous materials);

(10) Any information the railroad chooses to provide describing protections provided in lieu of a second train crewmember; and

(11) A statement signed by the railroad officer in charge of operations attesting that a safety analysis of the start-up operation with less than two crewmembers has been conducted and that the operation provides an appropriate level of safety. The safety analysis shall be made available to FRA upon request.

(c) *Service.* This information shall be submitted to the Associate Administrator for Railroad Safety and Chief Safety Officer, Federal Railroad Administration, 1200 New Jersey Avenue SE., Washington, DC 20590.

(d) *Public notice.* FRA will post the information identified in paragraph (b) of this section on its public Web site to permit interested parties an opportunity to provide additional information or comment on the operation identified by the railroad.

(e) *Review Process.* A railroad may initiate a start-up train operation with less than two crewmembers after the railroad submits the information identified in this section to FRA unless FRA informs the railroad that the information is incomplete. Depending on a variety of factors, including FRA's familiarity with the railroad's operation and the risk factors associated with the operation, FRA may initiate an investigation to aid in the determination. If FRA determines that an operation is not providing an appropriate level of safety, FRA will notify the railroad that the operation shall not continue or shall only continue under certain conditions. FRA will consider the benefits and costs of conditions it requires railroads to meet to continue a start-up train operation with less than two crewmembers. If FRA notifies a railroad that an operation shall not continue, or shall continue only if conditions are met, FRA will provide the railroad and the public, via its public Web site, the specific reason(s) and rationale for the decision.

(f) *Compliance.* A railroad shall adhere to the restrictions, limitations, and procedures it identifies in its submission to FRA as well as any condition imposed by FRA.

Issued in Washington, DC, on March 8, 2016, under the authority set forth in 49 CFR 1.89(b).

Sarah Feinberg,

Administrator.

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