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FEDERAL REGISTER

Vol. 81 Monday,

No. 152 August 8, 2016

Pages 52321–52588

OFFICE OF THE FEDERAL REGISTER

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

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Contents

Federal Register

Vol. 81, No. 152

Monday, August 8, 2016

Agriculture Department
See Animal and Plant Health Inspection Service
See Forest Service
See Rural Housing Service

Animal and Plant Health Inspection Service
RULES
State and Zone Designations:
California; Tuberculosis in Cattle and Bison, 52325–52326

Census Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
2017 Census Test, 52398–52401

Centers for Disease Control and Prevention
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 52434–52438

Children and Families Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
State Annual Long-Term Care Ombudsman Report Revised Data Collection to the National Ombudsman Reporting System, 52438

Coast Guard
RULES
Drawbridge Operations:
Umpqua River, Reedsport, OR, 52335
Safety Zones:
2016 Wings over Vermont Air Show, Lake Champlain, Burlington, VT, 52339–52341
Marine Events held in the Sector Long Island Sound Captain of the Port Zone, 52335–52339
Point to LaPointe Swim, Lake Superior, LaPointe, WI, 52339

Commerce Department
See Census Bureau
See Foreign-Trade Zones Board
See Industry and Security Bureau
See International Trade Administration
See National Oceanic and Atmospheric Administration

Community Living Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
National Maltreatment Reporting System, 52438–52439

Comptroller of the Currency
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Bank Secrecy Act/Money Laundering Risk, 52521–52525

Education Department
RULES
Final Priorities:
Enhanced Assessment Instruments Grant Program, 52341–52346
NOTICES
Applications for New Awards:
Enhanced Assessment Instruments Grant Program, 52424–52432
Federal Need Analysis Methodology for the 2016–17 Award Year:
Federal Pell Grant, Federal Perkins Loan, Federal Work-Study, Federal Supplemental Educational Opportunity Grant, William D. Ford Federal Direct Loan, Iraq and Afghanistan Service Grant and TEACH Grant Programs, 52418–52424

Energy Department
NOTICES
Meetings:
Biomass Research and Development Technical Advisory Committee, 52433
National Coal Council, 52432–52433

Environmental Protection Agency
RULES
Denials of Petitions for Reconsideration:
Mercury and Air Toxics Standards and the Utility New Source Performance Standards Startup and Shutdown Provisions; Final Action, 52346–52347
Pesticide Tolerances:
Flonicamid, 52348–52352
Technical Amendments to Performance Specification 18 and Procedure 6, 52348
PROPOSED RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
South Dakota, Revisions to the Permitting Rules, 52388–52393
Review of the 2008 Lead Renovation, Repair, and Painting Program, 52393–52394

Federal Aviation Administration
PROPOSED RULES
Class E Airspace; Amendments:
Blue Mesa, CO, 52369–52370

Federal Communications Commission
RULES
Improving Outage Reporting:
Submarine Cables and Enhanced Submarine Outage Data, 52354–52363

Federal Deposit Insurance Corporation
NOTICES
Terminations of Receivership:
Home National Bank Blackwell, OK, 52433

Federal Emergency Management Agency
RULES
Suspension of Community Eligibility, 52353–52354

Federal Motor Carrier Safety Administration
NOTICES
National Hazardous Materials Route Registry Revisions and Procedures, 52518–52521
Qualification of Drivers; Exemption Applications:
Diabetes Mellitus, 52505–52512
Implantable Cardioverter Defibrillators, 52512–52514
Vision, 52514–52518

Federal Reserve System
NOTICES
Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 52433–52434

Fish and Wildlife Service
RULES
Subsistence Management Regulations for Public Lands in Alaska—2016–17 and 2017–18 Subsistence Taking of Wildlife Regulations, 52528–52582

Food and Drug Administration
RULES
Refusals to Accept Procedures for Premarket Tobacco Product Submissions, 52329–52335
Standard Preparations, Limits of Potency, and Dating Period Limitations for Biological Products:
Confirmation of Effective Date, 52329
PROPOSED RULES
Food Additive Petitions:
Breast Cancer Fund, Center for Environmental Health, Center for Food Safety, Center for Science in the Public Interest, Clean Water Action, Consumer Federation of America, Earthjustice, Environmental Defense Fund, Improving Kids' Environment, Learning Disabilities Association of America, and Natural Resources Defense Council, 52370–52371
Refusals to Accept Procedures for Premarket Tobacco Product Submissions, 52371–52377
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Survey of Alumni Commissioner's Fellowship Program Fellows, 52439–52440
Determinations That Products Were Not Withdrawn from Sale for Reasons of Safety or Effectiveness:
BENTYL Dicyclomine Hydrochloride Syrup, 52440–52441
Guidance for Industry and Staff:
Deciding When to Submit a 510(k) for a Change to an Existing Device, 52443–52444
Deciding When to Submit a 510(k) for a Software Change to an Existing Device, 52441–52443
Guidance:
Ulcerative Colitis; Clinical Trial Endpoints, 52449–52450
Meetings:
Stakeholders; Over-the-Counter Monograph User Fees: Reopening of Comment Period, 52444–52445
Retrospective Review of Premarket Approval Application Devices:
Striking the Balance Between Premarket and Postmarket Data Collection, 52445–52449

Foreign Assets Control Office
NOTICES
Blocking or Unblocking of Persons and Properties:
AL-JANABI, Nabil Abdullah, Beirut, Lebanon, 52526

Foreign-Trade Zones Board
NOTICES
Reorganization and Expansion Applicationss under Alternative Site Framework:
Foreign-Trade Zone 193, Pinellas County, FL, 52401
Subzone Approvals:
Barrett Distribution Centers, Inc., Franklin, MA, 52402
Subzone Expansions: Approvals:
Premcor Refining Group Inc., Subzone 116C, Port Arthur, TX, 52401

Forest Service
RULES
Subsistence Management Regulations for Public Lands in Alaska—2016–17 and 2017–18 Subsistence Taking of Wildlife Regulations, 52528–52582
NOTICES
Meetings:
Kistachie National Forest Resource Advisory Committee, 52397
Nicolet Resource Advisory Committee, 52397–52398

Health and Human Services Department
See Centers for Disease Control and Prevention
See Children and Families Administration
See Community Living Administration
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health

Health Resources and Services Administration
NOTICES
Statements of Organization, Functions and Delegations of Authority, 52450–52451

Homeland Security Department
See Coast Guard
See Federal Emergency Management Agency
See U.S. Customs and Border Protection

Indian Affairs Bureau
NOTICES
Meetings:
Advisory Board for Exceptional Children, 52457–52458

Industry and Security Bureau
RULES
Export Administration Regulations to Add Targets for the Production of Tritium and Related Development and Production Technology to the List of 0Y521 Series; Amendments, 52326–52329

Interior Department
See Fish and Wildlife Service
See Indian Affairs Bureau
See National Park Service
RULES
Civil Penalties Inflation Adjustments; Correction, 52352

International Trade Administration
NOTICES
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Aluminum Extrusions from the People's Republic of China, 52402–52403
Preserved Mushrooms from the People's Republic of China, 52403–52405
Export Trade Certificates of Review:
Northwest Fruit Exporters; Application, 52405–52406

International Trade Commission
NOTICES
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Carbon Steel Butt-Weld Pipe Fittings from Brazil, China, Japan, Taiwan, and Thailand, 52460

Judicial Conference of the United States
NOTICES
Meetings:
Advisory Committee on Rules of Criminal Procedure, 52460

Justice Department
See Justice Programs Office
NOTICES
Proposed Consent Decrees under CERCLA, 52460–52461

Justice Programs Office
PROPOSED RULES
Formula Grant Program:
Juvenile Justice and Delinquency Prevention Act, 52377–52388

Legal Services Corporation
NOTICES
Agricultural Worker Population Estimates for Basic Field—Agricultural Worker/Migrant Grants, 52461–52464

Management and Budget Office
NOTICES
North American Industry Classification System:
Revision for 2017, 52584

Millennium Challenge Corporation
NOTICES
Compacts with the Republic of Niger, 52464–52466

National Credit Union Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Written Reimbursement Policy, 52466–52467

National Institutes of Health
NOTICES
Government-Owned Inventions; Availability for Licensing, 52452
Meetings:
Center for Scientific Review, 52453
National Cancer Institute, 52452–52453
National Institute on Alcohol Abuse and Alcoholism, 52451–52452

National Oceanic and Atmospheric Administration
RULES
Fisheries of the Exclusive Economic Zone Off Alaska:
Reallocation of Pollock in the Bering Sea and Aleutian Islands, 52367–52368
Fisheries of the Northeastern United States:
Small-Mesh Multispecies Fishery; Adjustment to the Commercial Northern Red Hake Inseason Possession Limit, 52366–52367
Snapper-Grouper Fishery of the South Atlantic:
2016 Recreational Accountability Measure and Closure for the South Atlantic Other Jacks Complex, 52366
PROPOSED RULES
Fisheries of the Exclusive Economic Zone Off Alaska:
Gulf of Alaska Management Area; Amendment 101, 52394–52396
NOTICES
Meetings:
Pacific Fishery Management Council, 52406–52407
Takes of Marine Mammals:
Anchor Retrieval Program in the Chukchi and Beaufort Seas, 52407–52418

National Park Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Community Harvest Assessments for Alaskan National Parks, Preserves, and Monuments, 52458–52459
National Park Service National Recreation Trails and National Water Trails System Applications, 52459–52460

National Science Foundation
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 52467–52478

Nuclear Regulatory Commission
NOTICES
License Application; Amendments:
Export Radioactive Waste, 52483–52484
Omaha Public Power District; Fort Calhoun Station, Unit No. 1, 52483
License Application; Renewals:
Massachusetts Institute of Technology, 52478–52482
Meetings; Sunshine Act, 52478
Nuclear Waste Importation Licenses, 52484–52485

Presidential Documents
EXECUTIVE ORDERS
Committees; Establishment, Renewal, Termination, etc.:
Africa, President's Advisory Council on Doing Business in; Amendment to Executive Order 13675 To Expand Membership (EO 13734), 52321–52322
ADMINISTRATIVE ORDERS
Electrify Africa Act of 2015; Delegation of Authority (Memorandum of August 3, 2016), 52323
Export Control Regulations; Continuation of National Emergency (Notice of August 4, 2016), 52585–52587

Rural Housing Service
NOTICES
Solicitations of Applications:
Loans to Re-Lenders under the Community Facility Loan Program for Fiscal Year (FY) 2016; Correction, 52398

Securities and Exchange Commission
NOTICES
Applications:
American Independence Funds Trust, et al., 52493–52494
Managed Portfolio Series and Port Street Investments, LLC, 52490–52491
OSI ETF Trust, et al., 52485–52486
Self-Regulatory Organizations; Proposed Rule Changes:
Bats BYX Exchange, Inc., 52503–52504
Bats BZX Exchange, Inc., 52494–52496, 52504–52505
Bats EDGA Exchange, Inc., 52491–52493
Bats EDGX Exchange, Inc., 52496–52498
C2 Options Exchange, Inc., 52498–52502

NASDAQ Stock Market, LLC, 52486–52490

Transportation Department
See Federal Aviation Administration
See Federal Motor Carrier Safety Administration
RULES
Technical Amendment to Revise the Definition of Service Agent, 52364–52365
NOTICES
Commuter Authority Applications:
Trans Northern Airways LLC, 52521

Treasury Department
See Comptroller of the Currency
See Foreign Assets Control Office

U.S. Customs and Border Protection
NOTICES
National Customs Automation Program:
Automated Commercial Environment Portal Accounts to Establish the Protest Filer Account, etc., 52453–52457

Separate Parts In This Issue

Part II
Agriculture Department, Forest Service, 52528–52582
Interior Department, Fish and Wildlife Service, 52528–52582

Part III
Management and Budget Office, 52584

Part IV
Presidential Documents, 52585–52587

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Executive Orders:

13675 (amended by 13734) 52321
13734 52321

Administrative Orders:

Memorandums:
Memorandum of August 3 2016 52323
Notices:
Notice of August 4, 2016 52587

9 CFR

77 52325

14 CFR

Proposed Rules:

71 52369

15 CFR

774 52326

21 CFR

610 52329
1105 52329

Proposed Rules:

175 52370
176 52370
177 52370
178 52370
1105 52371

28 CFR

Proposed Rules:

31 52377

33 CFR

117 52335
165 (3 documents) 52335, 52339

34 CFR

Ch. II 52341

36 CFR

242 52528

40 CFR

60 52346
63 (2 documents) 52346, 52348
180 52348

Proposed Rules:

52 52388
745 52393

43 CFR

10 52352

44 CFR

64 52353

47 CFR

1 52354
4 52354

49 CFR

40 52364

50 CFR

100 52528
622 52366
648 52366
679 52367

Proposed Rules:

679 52394

Federal Register
Vol. 81, No. 152
Monday, August 8, 2016

Presidential Documents

Title 3—

The President

Executive Order 13734 of August 3, 2016

Amending Executive Order 13675 To Expand Membership on the President's Advisory Council on Doing Business in Africa

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to promote broad-based economic growth and job creation in the United States and Africa by encouraging U.S. companies to trade with and invest in Africa, it is hereby ordered as follows:

Section 1. *Policy*. Recognizing the tremendous potential of expanding the U.S.-Africa commercial relationship, the United States in 2014 launched the Trade Africa Initiative, a partnership between the United States and Sub-Saharan Africa, and created a U.S. Strategy Toward Sub-Saharan Africa outlining a comprehensive U.S. policy for the region, among other activities. Ensuring that such initiatives and activities reflect the priorities of, and benefit from the support of, the private sector is critical to their success. For that reason, in Executive Order 13675 of August 5, 2014, I directed the Secretary of Commerce to establish the President's Advisory Council on Doing Business in Africa (Council). Since its establishment in November 2014, the Council has been actively engaged in advising on strengthening commercial engagement between the United States and Africa and has provided numerous recommendations on a broad range of issues. In light of the numerous U.S. Government initiatives and activities to promote expansion of the commercial relationship, the breadth of U.S. private sector engagement in Sub-Saharan Africa, and the range of issues on which future advice may be requested, broader representation of the diversity of private sector viewpoints, experiences, and knowledge on the Council is warranted. Thus I am increasing the membership of the Council.

Sec. 2. *Amendment to Executive Order 13675*. Executive Order 13675 of August 5, 2014, is amended in section 3(a) by striking ''shall consist of not more than 15 private sector corporate members'' and inserting in lieu thereof ''shall consist of not more than 26 private sector corporate members''.

Sec. 3. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

THE WHITE HOUSE,
August 3, 2016.

[FR Doc. 2016–18872
Filed 8–5–16; 8:45 am]
Billing code 3295–F6–P

Presidential Documents

Memorandum of August 3, 2016

Delegation of Authority Pursuant to Section 4 and Section 7 of the Electrify Africa Act of 2015

Memorandum for the Administrator of the United States Agency for International Development

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby delegate to you the functions and authorities vested in the President by section 4 and section 7 of the Electrify Africa Act of 2015 (Public Law 114–121) (the ''Act'').

Any reference in this memorandum to the Act shall be deemed to be a reference to any future act that is the same or substantially the same as such provisions.

You are authorized and directed to publish this memorandum in the *Federal Register*.

THE WHITE HOUSE,
Washington, August 3, 2016

[FR Doc. 2016–18879
Filed 8–5–16; 8:45 am]
Billing code 6116–01–P

Rules and Regulations

Federal Register
Vol. 81, No. 152
Monday, August 8, 2016

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

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 77

[Docket No. APHIS–2016–0052]

Tuberculosis in Cattle and Bison; State and Zone Designations; California

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the bovine tuberculosis regulations regarding State and zone classifications by reclassifying the State of California as accredited-free. We have determined that the State meets the criteria for accredited-free status. This action relieves certain restrictions on the interstate movement of cattle and bison from the State of California.

DATES: This interim rule is effective August 8, 2016. We will consider all comments that we receive on or before October 7, 2016.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2016-0052.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2016–0052, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2016-0052* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. C. William Hench, Cattle Health Center Staff Veterinarian, Surveillance, Preparedness and Response Services, Veterinary Services, APHIS, 2150 Centre Avenue, Fort Collins, CO 80526–8117; (970) 494–7378.

SUPPLEMENTARY INFORMATION:

Background

Bovine tuberculosis is a contagious and infectious granulomatous disease caused by the bacterium *Mycobacterium bovis.* Although commonly defined as a chronic debilitating disease, bovine tuberculosis can occasionally assume an acute, rapidly progressive course. While any body tissue can be affected, lesions are most frequently observed in the lymph nodes, lungs, intestines, liver, spleen, pleura, and peritoneum. Although cattle are considered to be the true hosts of *M. bovis,* the disease has been reported in several other species of both domestic and nondomestic animals, as well as in humans.

At the beginning of the past century, tuberculosis caused more losses of livestock than all other livestock diseases combined. This prompted the establishment in the United States of the National Cooperative State/Federal Bovine Tuberculosis Eradication Program for tuberculosis in livestock.

In carrying out the national eradication program, the Animal and Plant Health Inspection Service (APHIS) issues and enforces regulations. The regulations require the testing of cattle and bison for tuberculosis, define the Federal tuberculosis status levels for States or zones (accredited-free, modified accredited advanced, modified accredited, accreditation preparatory, and nonaccredited), provide the criteria for attaining and maintaining those status levels, and contain testing and movement requirements for cattle and bison leaving States or zones of a particular status level. These regulations are contained in 9 CFR part 77 and in the Bovine Tuberculosis Eradication Uniform Methods and Rules, 1999 (UMR), which is incorporated by reference into the regulations.

The status of a State or zone is based on its prevalence of tuberculosis in cattle and bison, the effectiveness of the State's tuberculosis eradication program, and the degree of the State's compliance with standards for cattle and bison contained in the UMR. The regulations provide that a State may request partitioning into specific geographic regions or zones with different status designations (commonly referred to as split-State status) if bovine tuberculosis is detected in a portion of a State and the State demonstrates that it meets certain criteria with regard to zone classification.

Request for Advancement of Modified Accredited Advanced Status

In an interim rule effective and published in the **Federal Register** on September 18, 2008 (73 FR 54063–54065, Docket No. APHIS–2008–0067), we amended the tuberculosis regulations for cattle and bison by removing the State of California from the list of accredited-free States for bovine tuberculosis and reclassified the State as modified accredited advanced. Because two affected cattle herds had been detected in California since November 2007, the State no longer met our requirements for accredited-free status. That action was necessary to reduce the likelihood of the spread of bovine tuberculosis within the United States. As a result of that action, cattle or bison moved interstate from anywhere in California have had to meet the testing requirements that apply to animals from modified accredited advanced States or zones.

The State of California has requested that the State be reclassified from modified accredited advanced to accredited-free. Based on the findings of a review of the tuberculosis eradication program in California conducted during the week of April 18 to 22, 2016, APHIS has determined that the State meets the criteria for advancement of status contained in the regulations.

State animal health officials in California have demonstrated that the State enforces and complies with the provisions of the UMR. The State of California has demonstrated that it has zero percent prevalence of cattle and bison herds affected with tuberculosis and has had no findings of tuberculosis in any cattle or bison in the State since the last affected herd completed a test-and-remove herd plan and was released from quarantine in July 2014. Therefore,

California has demonstrated that the State meets the criteria for accredited-free status as set forth in the definition of *accredited-free State or zone* in § 77.5 of the regulations.

Based on our evaluation of California's request, we are classifying the entire State of California as accredited-free.

Immediate Action

Immediate action is warranted to relieve restrictions on the interstate movement of cattle and bison from the State of California. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this action effective less than 30 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule (see **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

Executive Order 12866 and Regulatory Flexibility Act

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

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities. The analysis is summarized below. The full analysis may be viewed on the *Regulations.gov* Web site (see **ADDRESSES** above for instructions for accessing *Regulations.gov*) or obtained from the person listed under **FOR FURTHER INFORMATION CONTACT**.

Tuberculosis testing, including veterinary fees, costs approximately $10 to $15 per head. Approximately 100,000 tuberculosis tests were conducted in California in 2015, to meet the import requirements imposed by other States. Based on this information, the annual cost savings associated with advancing the tuberculosis status of California from modified accredited advanced to accredited-free will range from $1 million to $1.5 million. We note that Federal interstate movement testing requirements for modified accredited advanced States were suspended by a Federal Order issued in April 2010. The $1 million to $1.5 million in savings that will be realized represents less than 0.02 percent of the approximately $10 billion earned from California's cattle and milk sales.

Entities that may be affected by the interim rule fall into various categories of the North American Industry Classification System. The majority of the affected businesses are small entities.

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

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 2 CFR chapter IV.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule has no retroactive effect and does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

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

List of Subjects in 9 CFR Part 77

Animal diseases, Bison, Cattle, Reporting and recordkeeping requirements, Transportation, Tuberculosis.

Accordingly, we are amending 9 CFR part 77 as follows:

PART 77—TUBERCULOSIS

■ 1. The authority citation for part 77 continues to read as follows:

Authority: 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

77.7 [Amended]

■ 2. In § 77.7, paragraph (a) is amended by adding the word ''California,'' after the word ''Arkansas,''.

77.9 [Amended]

■ 3. In § 77.9, paragraph (a) is amended by removing the word ''California'' and adding the word ''None'' in its place.

Done in Washington, DC, this 29th day of July 2016.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2016–18428 Filed 8–5–16; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 774

[Docket No. 160303184–6184–01]

RIN 0694–AG90

Amendment to the Export Administration Regulations To Add Targets for the Production of Tritium and Related Development and Production Technology to the List of 0Y521 Series

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Interim final rule with request for comments.

SUMMARY: In this interim final rule, the Bureau of Industry and Security (BIS) amends the Export Administration Regulations (EAR) to make certain items subject to the EAR and to impose on those items a license requirement for export and reexport to all destinations, except Canada. Specifically, this rule classifies certain specified targets ''specially designed'' for the production of tritium and related ''development'' and ''production'' technology under Export Control Classification Numbers (ECCNs) 0A521 and 0E521, respectively, on the Commerce Control List (CCL). As described in the final rule that established the 0Y521 series and that was published in the **Federal Register** on April 13, 2012, items are added to the 0Y521 series upon a determination by the Department of Commerce, with the concurrence of the Departments of Defense and State, and other agencies as appropriate, that the items should be controlled for export because the items provide at least a significant military or intelligence advantage to the United States or foreign policy reasons justify control. In this matter, the Department of Energy also concurred in the control imposed. The items identified in this rule are controlled for regional stability (RS) Column 1 reasons. The only license exception available for these items is for exports, reexports, and transfers (in-country) made by or consigned to a department or agency of the U.S. Government.

DATES: This rule is effective August 8, 2016. Comments must be received by October 7, 2016.

ADDRESSES: You may submit comments by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* The identification number for this rulemaking is BIS–2016–0027.
- *By email directly to: publiccomments@bis.doc.gov.* Include RIN 0694–AG90 in the subject line.
- By mail or delivery to Regulatory Policy Division, Bureau of Industry and Security, U.S. Department of Commerce, Room 2099B, 14th Street and Pennsylvania Avenue NW., Washington, DC 20230. Refer to RIN 0694–AG90.

FOR FURTHER INFORMATION CONTACT: Steven Clagett, Director, Nuclear and Missile Technology Controls Division, Office of Nonproliferation and Treaty Compliance, by phone at (202) 482–1641, or by email at *Steven.Clagett@bis doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

BIS established the ECCN 0Y521 series to identify items that warrant control on the CCL but are not yet identified in an existing ECCN (77 FR 22191, April 13, 2012). Items are added to the ECCN 0Y521 series by the Department of Commerce, with the concurrence of the Departments of Defense and State, and other agencies as appropriate, upon a determination that an item should be controlled because it provides at least a significant military or intelligence advantage to the United States or because foreign policy reasons justify such control. In this matter, the Department of Energy also concurred in the control imposed. The ECCN 0Y521 series is a temporary holding classification with a limitation that while an item is temporarily classified under ECCN 0Y521, the U.S. Government works to adopt a control through the relevant multilateral regime(s), in this case the Nuclear Suppliers Group, to determine an appropriate longer-term control over the item, or that the item does not warrant control on the CCL.

Items classified under ECCN 0Y521, including the items identified in this interim final rule as 0A521 and 0E521 items, remain so-classified for one year from the date a final rule identifying the item is published in the **Federal Register** amending the EAR, unless the item is re-classified under a different ECCN, under an EAR99 designation, or the 0Y521 classification is extended. During this time, the U.S. Government determines whether it is appropriate to submit a proposed control to the applicable export control regime (*e.g.,* the Nuclear Suppliers Group) for potential multilateral control, with the understanding that multilateral controls are preferable when practical. An item's ECCN 0Y521 classification may be extended for two one-year periods to provide time for the U.S. Government and multilateral regime(s) to reach agreement on controls for the item, and provided that the U.S. Government has submitted a proposal to obtain multilateral controls over the item. Further extension beyond three years may occur only if the Under Secretary for Industry and Security makes a determination that such extension is in the national security or foreign policy interests of the United States. An extension or re-extension, including a determination by the Under Secretary for Industry and Security, will be published in the **Federal Register**.

License Requirements, Policies and Exceptions

The license requirements and policies for the ECCN 0Y521 series appear in § 742.6(a)(7) of the EAR. ECCN 0Y521 items are subject to a nearly worldwide license requirement (*i.e.,* for every country except Canada) with a case-by-case license review policy, through regional stability (RS Column 1) controls. The description and status of ECCN 0Y521 items appear in Supplement No. 5 to part 774 of the EAR, along with any item-specific license exceptions, where applicable. Unless otherwise indicated, License Exception GOV is the only license exception available and is applicable to all ECCN 0Y521 series items, including those items identified in this notice, if the item is within the scope of § 740.11(b)(2)(ii) (Exports, reexports, and transfers (in-country) made by or consigned to a department or agency of the U.S. Government), as provided in § 740.2(a)(14).

Addition of ECCN 0A521 and 0E521 Items: Targets for the Production of Tritium and Related ''Development'' and ''Production'' Technology

In this rule, BIS amends the EAR to make targets made of or containing lithium ''specially designed'' for the production of tritium by insertion in the core of a nuclear reactor and related ''development'' and ''production'' technology subject to the EAR and imposes a license requirement on the items. These items are being added to the 0Y521 series pursuant to a determination by the Department of Commerce, with the concurrence of the Departments of Defense, State and Energy, that the items should be controlled because they provide a significant military or intelligence advantage to the United States or because foreign policy reasons justify such controls.

ECCN 0A521 No. 1, which appears in the table found in Supplement No. 5 to part 774 of the EAR, covers targets made of or containing lithium ''specially designed'' for the production of tritium by insertion in the core of a nuclear reactor.

ECCN 0E521 No. 1 covers technology required for the ''development'' or ''production'' of items classified under ECCN 0A521 No. 1.

License Applications for the New ECCN 0A521 and 0E521 Items

License applications for these items may be submitted through SNAP–R in accordance with § 748.6 of the EAR. Exporters are directed to include detailed descriptions and technical specifications with the license application, and identify the item's ECCN.

The rule is being issued in interim final form because while the government believes that it is in the national security interests of the United States to immediately implement these controls, it also wants to provide the interested public with an opportunity to comment on the new controls of the items. Comments may be submitted in accordance with the **DATES** and **ADDRESSES** sections of this rule. BIS will review and, if appropriate, address such comments through rulemaking consistent with the process described in the April 13, 2012 final rule creating the ECCN 0Y521 series (77 FR 22191).

Export Administration Act

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013) and as extended by the Notice of August 7, 2015, 80 FR 48233 (August 11, 2015), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act. BIS continues to carry out the provisions of the Export Administration Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222 as amended by Executive Order 13637.

Rulemaking Requirements

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

2. Notwithstanding any other provision of law, no person is required to respond to, nor is subject to a penalty for failure to comply with, a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid OMB control number. This rule affects two approved collections: (1) The Simplified Network Application Processing + System (control number 0694–0088), which carries a burden hour estimate of 43.8 minutes, including the time necessary to submit license applications, among other things, as well as miscellaneous and other recordkeeping activities that account for 12 minutes per submission; and (2) License Exceptions and Exclusions (0694–0137). BIS does not believe that this rule will materially increase the number of submissions under these collections.

3. This rule does not contain policies with Federalism implications as that term is defined under E.O. 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring prior notice, the opportunity for public comment and a delay in effective date are inapplicable because this regulation involves a military or foreign affairs function of the United States (*See* 5 U.S.C. 553(a)(1)). BIS, with the concurrence of the U.S. Departments of Defense and State, is implementing this rule because the items identified for the ECCN 0Y521 series in this rule provide a significant military or intelligence advantage to the United States. Immediate imposition of a license requirement is necessary to effect the national security and foreign policy goals of this rule. Immediate implementation will allow BIS to prevent exports of these items to users and for uses that pose a national security threat to the United States or its allies. If BIS delayed this rule to allow for prior notice and opportunity for public comment, the resulting delay in implementation would afford an opportunity for the export of these items to users and uses that pose such a national security threat, thereby undermining the purpose of the rule. In addition, if parties receive notice of the U.S. Government's intention to control these items under 0Y521 once a final rule was published, they might have an incentive to either accelerate orders of these items or attempt to have the items exported prior to the imposition of the control.

Further, BIS finds good cause to waive the 30-day delay in effectiveness under 5 U.S.C. 553(d)(3). Immediate implementation of these changes will allow BIS to prevent exports of these items to users and for uses that pose a national security threat to the United States or its allies. If BIS delayed this rule to allow for a 30-day delay in effectiveness, the resulting delay in implementation would afford an opportunity for the export of these items to users and uses that pose such a national security threat, thereby undermining the purpose of the rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared. Although notice and opportunity for comment are not required, BIS is issuing this rule as an interim final rule with a request for comments. All comments must be in writing and submitted via one or more of the methods listed under the **ADDRESSES** caption to this notice. All comments (including any personal identifiable information) will be available for public inspection and copying. Those wishing to comment anonymously may do so by submitting their comment via *regulations.gov* and leaving the fields for identifying information blank.

List of Subjects in 15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

Accordingly, part 774 of the Export Administration Regulations (15 CFR parts 730–774) is amended as follows:

PART 774—[AMENDED]

■ 1. The authority citation for part 774 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.;* 22 U.S.C. 6004; 42 U.S.C. 2139a; 42 U.S.C. 6212; 15 U.S.C. 1824a; 50 U.S.C. 4305; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2015, 80 FR 48233 (August 11, 2015).

■ 2. Amend Supplement No. 5 to Part 774 by:

■ A. In the table, remove the reserved entry under 0A521 and add in its place entry No. 1.

■ B. In the table, remove the reserved entry under 0E521 and add in its place entry No. 1.

The additions read as follows:

Supplement No. 5 to Part 774—Items Classified Under ECCNS 0A521, 0B521, 0C521, 0D521 AND 0E521

The following table lists items subject to the EAR that are not listed elsewhere in the CCL, but which the Department of Commerce, with the concurrence of the Departments of Defense and State, has identified warrant control for export or reexport because the items provide at least a significant military or intelligence advantage to the United States or for foreign policy reasons.

Item descriptor *Note:* The description must match by model number or a broader descriptor that does not necessarily need to be company specific	Date of initial or subsequent BIS classification (ID = initial date; SD = subsequent date)	Date when the item will be designated EAR99, unless reclassified in another ECCN or the 0Y521 classification is reissued	Item-specific license exception eligibility
0A521. Systems, Equipment and Components.			
No. 1 Targets made of or containing lithium "specially designed" for the production of tritium by insertion in the core of a nuclear reactor.	August 8, 2016 (ID) ...	August 8, 2017	License Exception GOV under § 740.11(b)(2)(ii) only.

Item descriptor *Note:* The description must match by model number or a broader descriptor that does not necessarily need to be company specific	Date of initial or subsequent BIS classification (ID = initial date; SD = subsequent date)	Date when the item will be designated EAR99, unless reclassified in another ECCN or the 0Y521 classification is reissued	Item-specific license exception eligibility
* * * * * * *			
0E521. Technology.			
No. 1 "Technology" required for the "development" or "production" of 0A521 No. 1 items.	August 8, 2016 (ID) ...	August 8, 2017	License Exception GOV under § 740.11(b)(2)(ii) only.

Dated: July 25, 2016.

Matthew S. Borman,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 2016–18070 Filed 8–5–16; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 610

[Docket No. FDA–2016–N–1170]

Standard Preparations, Limits of Potency, and Dating Period Limitations for Biological Products; Confirmation of Effective Date

AGENCY: Food and Drug Administration, HHS.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date of September 16, 2016, for the final rule that appeared in the **Federal Register** of May 4, 2016. The direct final rule amends the general biological products standards relating to dating periods and removes certain standards relating to standard preparations and limits of potency. FDA is taking this action to update outdated requirements, and accommodate new and evolving technology and testing capabilities without diminishing public health concerns. This action is part of FDA's retrospective review of its regulations in response to an Executive order. This document confirms the effective date of the direct final rule.

DATES: Effective date of final rule published in the **Federal Register** of May 4, 2016 (81 FR 26687), confirmed: September 16, 2016.

FOR FURTHER INFORMATION CONTACT: Tami Belouin, 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: In the **Federal Register** of May 4, 2016 (81 FR 26687), FDA solicited comments concerning the direct final rule for a 75-day period ending July 18, 2016. FDA stated that the effective date of the direct final rule would be on September 16, 2016, 60 days after the end of the comment period, unless any significant adverse comment was submitted to FDA during the comment period. FDA did not receive any significant adverse comments.

Authority: Therefore, under the biological products provisions of the Public Health Service Act (42 U.S.C. 216, 262, 263, 263a, and 264) and the drugs and general administrative provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 355, 360, 360c, 360d, 360h, 360i, 371, 372, 374, and 381), and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 610 is amended. Accordingly, the amendments issued thereby are effective.

Dated: August 1, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–18584 Filed 8–5–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 1105

[Docket No. FDA–2016–N–1555]

Refuse To Accept Procedures for Premarket Tobacco Product Submissions

AGENCY: Food and Drug Administration, HHS.

ACTION: Direct final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a rule describing when FDA will refuse to accept a tobacco product submission (or application) because the application has not met a minimum threshold for acceptability for FDA review. Under the rule, FDA will refuse to accept a tobacco product submission, for example, that is not in English, does not pertain to a tobacco product, or does not identify the type of submission. By refusing to accept submissions that have the deficiencies identified in the rule, FDA will be able to focus our review resources on submissions that meet a threshold of acceptability and encourage quality submissions. FDA is issuing this action directly as a final rule because we believe there is little likelihood that we will receive any significant adverse comments opposing the rule given the specific deficiencies identified that will result in FDA's refusal to accept the submission.

DATES: This rule is effective December 21, 2016. Submit either electronic or written comments on this direct final rule by October 24, 2016. If we receive no significant adverse comments during the specified comment period, we intend to publish a confirmation document on or before the effective date by publication of a document in the **Federal Register**.

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–1555 for ''Refuse to Accept Procedures for Premarket Tobacco Submissions.'' 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: Annette Marthaler or Paul Hart, Office of Regulations, Center for Tobacco Products (CTP), Food and Drug Administration, Document Control Center, Bldg. 71, Rm. G335, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 877–287–1373, *CTPRegulations@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Purpose of the Rule

FDA is issuing this refuse to accept rule under direct final rule procedures. The rule identifies deficiencies that will result in FDA's refusal to accept certain tobacco product submissions under sections 905, 910, and 911 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act), as amended by the Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) (21 U.S.C. 387e, 387j, and 387k).[1] Because these submissions will be refused before they enter FDA's review queue, more resources will be available for submissions that are ready for further review. This rule establishes a refuse to accept process for premarket tobacco product submissions, including premarket tobacco product applications (PMTAs), modified risk tobacco product applications (MRTPAs), substantial equivalence (SE) applications (also called SE reports), and exemption requests (including subsequent abbreviated reports).

B. Summary of the Major Provisions of the Regulatory Action

The rule explains when FDA will refuse to accept a premarket submission, including PMTAs, MRTPAs, SE applications, and exemption requests (including subsequent abbreviated reports). The rule is based on FDA's experience in reviewing these submissions. Under the rule, FDA will refuse to accept a premarket submission that: (1) Does not pertain to a tobacco product; (2) is not in English (or does not include a complete translation); (3) is submitted in an electronic format that FDA cannot process, read, review, or archive; (4) does not include the applicant's contact information; (5) is from a foreign applicant and does not include the name and contact information of an authorized U.S. agent (authorized to act on behalf of the applicant for the submission); (6) does not include a required form(s); (7) does not identify the tobacco product; (8) does not identify the type of submission; (9) does not include the signature of a responsible official authorized to represent the applicant; or (10) does not include an environmental assessment or claim of a categorical exclusion, if applicable. If FDA refuses to accept the submission, FDA will send the contact (if available) a notification. If the submission is accepted for further review, FDA will send an acknowledgement letter.

II. Direct Final Rulemaking

In the **Federal Register** of November 21, 1997 (62 FR 62466), FDA described the procedures on when and how the Agency will employ direct final rulemaking (this guidance document may be accessed at *http://www.fda.gov/regulatoryinformation/guidances/ucm125166.htm*). We have determined that this rule is appropriate for direct final rulemaking because we believe it is noncontroversial and we anticipate no significant adverse comments. Consistent with our procedures on direct final rulemaking, FDA is publishing elsewhere in this issue of the **Federal Register** a companion proposed rule with the same codified language as this direct final rule to add a rule describing when FDA would refuse to accept submissions due to deficiencies. The companion proposed rule provides a procedural framework within which the rule may be finalized in the event that the direct final rule is withdrawn because of any significant adverse comments. The comment period for the

[1] FDA has published a final rule extending the Agency's ''tobacco product'' authorities in the FD&C Act to all categories of products that meet the statutory definition of ''tobacco product'' in the FD&C Act, except accessories of such newly deemed tobacco products (Final Rule Deeming Tobacco Products To Be Subject to the Federal Food, Drug, and Cosmetic Act, as Amended by the Family Smoking Prevention and Tobacco Control Act; Restrictions on the Sale and Distribution of Tobacco Products and Required Warning Statements for Tobacco Products (81 FR 28974, May 10, 2016)). This direct final rule applies to all tobacco products FDA regulates under Chapter IX of the FD&C Act.

direct final rule runs concurrently with the companion proposed rule.

We are providing a comment period on the direct final rule of 75 days after the date of publication in the **Federal Register**. If we receive any significant adverse comments, we intend to withdraw this direct final rule action before its effective date by publication of a notification in the **Federal Register**. A significant adverse comment is defined as a comment that explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. In determining whether an adverse comment is significant and warrants terminating a direct final rulemaking, we will consider whether the comment raises an issue serious enough to warrant a substantive response in a notice and comment process in accordance with section 553 of the Administrative Procedure Act (5 U.S.C. 553). Comments that are frivolous, insubstantial, or outside the scope of the rule will not be considered significant or adverse under this procedure. A comment recommending a regulation change in addition to those in the rule would not be considered a significant adverse comment unless the comment provides a reasonable explanation for why the rule would be ineffective without the additional change. In addition, if a significant adverse comment applies to an amendment, paragraph, or section of this rule and that provision can be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not subject of a significant adverse comment.

If any significant adverse comments are received during the comment period, FDA will publish, before the effective date of this direct final rule, a document withdrawing the direct final rule. If we withdraw the direct final rule, any comments received will be applied to the proposed rule and will be considered in developing a final rule using the usual notice and comment procedures. If FDA receives no significant adverse comments during the specified comment period, FDA intends to publish a confirmation document, before the effective date of the direct final rule, confirming the effective date.

III. Purpose and Legal Authority

A. Purpose

FDA is issuing this refuse to accept rule as a means of efficiently handling submissions that do not meet a threshold of acceptability for FDA review, *e.g.,* the submission lacks certain information FDA needs for substantive review of the submission. Currently, FDA often expends extensive time and resources in attempts to obtain information and resolve the deficiencies identified in the rule simply to begin substantively processing the submission. FDA expects that the rule will enhance the quality of the submissions and that submissions will move expeditiously through the review process. In addition, this rule will help submitters better understand the common hurdles FDA encounters in conducting a substantive review of submissions.

The rule identifies deficiencies that FDA has seen across types of premarket submissions and will result in FDA refusing to accept the submission. This rule applies to all tobacco product applications; we note that there are additional deficiencies that are not covered in this rule that may arise for specific types of premarket submissions that will also result in FDA's refusal to accept that specific type of premarket submission (*e.g.,* a PMTA fails to contain specimens of the labeling proposed to be used for such tobacco product under section 910(b)(1)(F) of the FD&C Act).

FDA's refusal to accept a tobacco product submission will not preclude an applicant from resubmitting a new submission that addresses the deficiencies. In addition, acceptance of a submission will not mean that FDA has determined that the submission is complete, but rather only that the submission has met the basic, minimum threshold for acceptance. Substantive review of the submission will begin once FDA accepts the submission, and for submissions with filing requirements (*i.e.,* PMTAs and MRTPAs), once filed. The rule establishes a general process for refusing to accept submissions for premarket tobacco product review, including PMTAs, MRTPAs, SE applications, and exemption requests (including subsequent abbreviated reports). Because administratively incomplete submissions will be refused before FDA begins substantive review, we will be able to use our resources on submissions that are more complete and better prepared for further review. In addition, FDA intends to determine, as soon as practicable, whether the submission will be accepted. We expect the amount of time it takes FDA to make this determination to be relatively quick, however, it may vary depending on the volume of submissions received at any one time. FDA remains committed to an efficient product review process and intends to establish and implement performance goals for this action once it has experience with the volume of submissions it will receive after the deeming rule becomes effective. FDA expects the performance goals to be generally similar to other Agency performance goals, *i.e.* a certain percentage of RTA determinations made within a defined period of time, and with the percentage rising over time.

B. Legal Authority

Section 701(a) of the FD&C Act (21 U.S.C. 371(a)) provides FDA with authority to issue regulations for the efficient enforcement of the FD&C Act. This rule allows FDA to more efficiently use our resources to review premarket submissions under sections 905, 910, and 911 of the FD&C Act. FDA has processed and reviewed many submissions since the enactment of the Tobacco Control Act, and submissions with the deficiencies identified in the rule have been repeatedly identified by FDA as reflecting submissions that are incomplete and not prepared for further review.

IV. Description of the Direct Final Rule

We are adding part 1105 (21 CFR part 1105) to title 21, specifically § 1105.10. Section 1105.10(a) provides that FDA will refuse to accept, as soon as practicable, PMTAs, MRTPAs, SE applications, and exemption requests (including subsequent abbreviated reports), for the reasons listed in paragraphs (a)(1) through (10), if applicable:

- Section 1105.10(a)(1) states that FDA will refuse to accept a tobacco product submission that does not pertain to a tobacco product. This provision addresses a submission that refers to a product that does not meet the definition of a ''tobacco product'' under section 201(rr) of the FD&C Act (21 U.S.C. 321(rr)) and, therefore, is not subject to FDA's tobacco product authorities.
- Section 1105.10(a)(2) states that FDA will refuse to accept a submission that is not in the English language or does not contain complete English translations of any information included with the submission. FDA is unable to read and process such submissions.
- Section 1105.10(a)(3) provides that FDA will refuse to accept a submission if it is provided in an electronic format that FDA cannot process, read, review, and archive. As with submissions that are not in English (or fail to include an English translation), FDA is unable to read and process such submissions. FDA provides information on the electronic formats that it can read, process, review, and archive at *http://www.fda.gov/tobaccoproducts/*

guidancecompliance regulatoryinformation/manufacturing/default.htm.

• Section 1105.10(a)(4) provides that FDA will refuse to accept any submission that does not contain contact information, including the applicant's name and address. If a submission omits the contact information, FDA will not be able to contact the applicant regarding the submission, *e.g.,* with questions or followup related to the submission. In this instance, FDA also will likely be unable to provide notice of the Agency's refusal to accept the submission under § 1105.10(c).

• Section 1105.10(a)(5) provides that FDA will refuse to accept a submission from a foreign applicant if the submission does not list an authorized U.S. agent, including the agent's U.S. address. FDA is requiring identification of a U.S. agent for two reasons. First, a U.S. agent is important to help CTP ensure adequate notice is provided to applicants for official Agency communications. FDA may be unable to confirm that adequate notice of Agency action or correspondence concerning premarket submissions is provided to foreign applicants as FDA cannot necessarily confirm receipt of correspondence sent internationally. Accordingly, the designation of a U.S. agent provides an official contact to the Agency who can receive the information or documentation on behalf of the applicant. Providing notice regarding that application to the U.S. agent will constitute notice to the foreign applicant. Second, FDA requires identification of a U.S. agent to assist FDA in communication with the foreign applicant and help the Agency to efficiently process applications and avoid delays. In many instances during the application review process, FDA has reached out numerous times to foreign applicants and has either been unable to speak with the applicant or unable to directly communicate questions and/or concerns. This impediment, which occurs more for foreign applicants than domestic applicants, has resulted in delays or terminations in the review of specific applications and a slowdown of the premarket application process as a whole. A U.S. agent will act as a communications link between FDA and the applicant and will facilitate timely correspondence between FDA and foreign applicants, including responding to questions concerning pending applications and, if needed, assisting FDA in scheduling meetings with the foreign applicants to resolve outstanding issues before Agency action is taken. Additionally, the identified U.S. agent will be authorized to act on behalf of the foreign applicant for that specific application.

• Section 1105.10(a)(6) provides that FDA will refuse to accept the submission if it does not include any required FDA form(s). At the time of this direct final rule, FDA has not yet issued any forms to accompany premarket submissions. In the event that FDA does issue such a form(s), the Agency will give interested parties notice and opportunity to comment on such forms in accordance with rulemaking procedures and the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

• Section 1105.10(a)(7) provides that FDA will refuse to accept a submission that does not contain the following product-identifying information (for the product that is the subject of the submission and, if applicable, for the predicate): The manufacturer of the tobacco product; the product name, including brand and subbrand; product category (*e.g.,* cigarette) and subcategory (*e.g.,* combusted, filtered); package type (*e.g.,* box) and package quantity (*e.g.,* 20 per box); and characterizing flavor (*i.e.,* applicants must state the characterizing flavor, such as menthol, or state that there is no characterizing flavor present in the tobacco product). For example, in table 1, FDA has supplied a list of recommended categories and subcategories of some tobacco products to assist applicants in providing product-identifying information in their submissions. Note that there may be other information FDA needs to identify a particular product, *e.g.,* descriptors (such as ''premium'') that are separate from the product name. If this is the case, such information should be provided by the applicant in the initial submission to facilitate FDA's efficient review.

TABLE 1—TOBACCO PRODUCT CATEGORIES AND SUBCATEGORIES

Tobacco product category	Tobacco product subcategory
Cigarettes	Combusted, Filtered.
	Combusted, Non-Filtered.
	Combusted, Other.
	Non-Combusted.
Roll-Your-Own Tobacco Products	Roll-Your-Own Tobacco Filler.
	Rolling Paper.
	Filtered Cigarette Tube.
	Non-Filtered Cigarette Tube.
	Filter.
	Paper Tip.
	Roll-Your-Own Co-Package.
	Other.
Smokeless Tobacco Products	Loose Moist Snuff.
	Portioned Moist Snuff.
	Loose Snus.
	Portioned Snus
	Loose Dry Snuff.
	Dissolvable.
	Loose Chewing Tobacco.
	Portioned Chewing Tobacco.
	Smokeless Co-Package.
	Other.
ENDS (Electronic Nicotine Delivery System)	Open E-Liquid.
	Closed E-Liquid.
	Closed E-Cigarette.
	Open E-Cigarette.
	ENDS Component.

TABLE 1—TOBACCO PRODUCT CATEGORIES AND SUBCATEGORIES—Continued

Tobacco product category	Tobacco product subcategory
	ENDS Co-Package.
	ENDS Other.
Cigars	Filtered, Sheet-Wrapped Cigar.
	Unfiltered, Sheet-Wrapped Cigar.
	Leaf-Wrapped Cigar.
	Cigar Component.
	Cigar Tobacco Filler.
	Cigar Co-Package.
	Other.
Pipe Tobacco Products	Pipe.
	Pipe Tobacco Filler.
	Pipe Component.
	Pipe Co-Package.
	Other.

This product-specific information helps ensure that the product is within CTP's purview and enables FDA to appropriately identify the specific product that is the subject of the submission. Specifically, this information is necessary to both review the submission itself and to issue an order that appropriately identifies the tobacco product that is subject to the order. For example, an SE submission contains a comparison between the predicate and new products. If FDA does not know the exact products that are being compared, FDA will be unable to sufficiently understand and evaluate the comparison to determine whether the products are substantially equivalent. As another example, if an applicant does not specify whether its proposed new product contains a characterizing flavor, FDA will not be able to issue an order as it will not know the specific product for which the applicant is seeking an order (*e.g.,* product X menthol or product X cinnamon.)

- Section 1105.10(a)(8) provides that FDA will refuse to accept a submission if the applicant fails to indicate the type of submission (*i.e.,* PMTA, MRTPA, SE application, or exemption request or subsequent abbreviated report), because that information is necessary to enable FDA to begin an appropriate review of the submission.
- Section 1105.10(a)(9) provides that FDA will refuse to accept a submission if it does not contain a signature of a responsible official, authorized to represent the applicant who either resides in or has a place of business in the United States. A signature provides assurance to FDA that the submission is both intended by the applicant and ready for review. Responsible officials also should be aware that under 18 U.S.C. 1001, it is illegal to knowingly and willingly submit false information to the U.S. Government.
- Section 1105.10(a)(10) applies only to PMTAs, MRTPAs, SE applications, and exemption requests (this subsection does not apply to the subsequent abbreviated report). For these submissions, this paragraph provides that FDA will refuse to accept the submission if it does not include an environmental assessment (EA) or a valid claim of categorical exclusion. Under § 25.15(a) (21 CFR 25.15(a)), all submissions requesting FDA action require the submission of either a claim of categorical exclusion or an EA. Because an EA is required for an initial exemption request, it is not also required for an abbreviated report, and thus is not a basis for FDA to refuse to accept an abbreviated report. In addition, § 25.15(a) provides that FDA may refuse to file a submission if the included EA fails to address ''the relevant environmental issues.'' Because the SE and SE Exemption pathways do not include a filing stage, FDA intends to determine such adequacy at the acceptance stage for those pathways.[2] The EA or claim of categorical exclusion must be made for the Agency action being proposed (*e.g.,* issuance of an SE order for introduction of such new tobacco product into interstate commerce for commercial distribution in the United States.). For information on preparing an EA, refer to § 25.40.

Section 1105.10(b) provides that if FDA does not identify a reason under paragraph (a) for refusing to accept a submission, then the Agency may accept it for processing and further review. If FDA does accept the submission, the Agency intends to send the submitter an acknowledgement letter stating that FDA has accepted the submission for processing and further review. This letter will also include a premarket submission tracking number.

[2] The PMTA and MRTPA pathways, by contrast, have a filing stage.

Section 1105.10(c) provides that if FDA identifies a reason under paragraph (a) for refusing to accept a premarket review submission, we will notify the applicant in writing of the reason(s) and that FDA has not accepted the submission for processing and further review. However, FDA will be unable to provide this notification when the contact information is insufficient, for example, has not been provided or is not legible. If FDA refuses to accept the submission for one or more of the reasons stated in § 1105.10, the submitter may revise the submission to correct the deficiencies and resubmit it to FDA as a new submission.

V. Effective Date

This direct final rule will be effective 60 days after the comment period ends.

VI. Paperwork Reduction Act of 1995

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

VII. Federalism

We have analyzed this direct final rule in accordance with the principles set forth in Executive Order 13132. We have determined that the rule does not contain policies 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. Accordingly, we conclude that the rule does not contain policies that have federalism implications as defined in the Executive Order and, consequently, a federalism summary impact statement is not required.

VIII. Tribal Consultation

We have analyzed this rule in accordance with the principles set forth in Executive Order 13175. We have determined that the rule does not contain policies that would have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. Accordingly, we conclude that the rule does not contain policies that have tribal implications as defined in the Executive Order; consequently, a tribal summary impact statement is not required.

IX. Analysis of Environmental Impact

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

X. Economic Analysis of Impacts

We have examined the impacts of the direct final rule under Executive Order 12866, Executive Order 13563, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Orders 12866 and 13563 direct us to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). We believe that this direct final rule is not a significant regulatory action as defined by Executive Order 12866.

The Regulatory Flexibility Act requires us to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because this final rule establishes a procedure that FDA is responsible for implementing and has the effect of providing entities with useful feedback on the readiness of a submission, we certify that the direct final rule will not have a significant economic impact on a substantial number of small entities.

The Unfunded Mandates Reform Act of 1995 (section 202(a)) requires us to prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $146 million, using the most current (2015) Implicit Price Deflator for the Gross Domestic Product. This direct final rule would not result in expenditure in any year that meets or exceeds this amount.

This rule identifies 10 significant and common deficiencies in premarket tobacco submissions that will cause FDA to refuse to accept them. Encouraging submissions that are free of the deficiencies listed in this rule does not represent a change in Agency expectations. One of the 10 deficiencies is required by statute (*i.e.,* must be a tobacco product). One of the deficiencies is required by another regulation (*i.e.,* must comply with environmental considerations). The remaining eight deficiencies are basic expectations for an application to enter the review process. Therefore, this rule clarifies these expectations. This clarification will result in cost savings for both the applicant and FDA as less time is spent by FDA working with applicants to address these significant deficiencies. Applicants will have clarity about basic expectations of the requirements needed for acceptance of premarket applications. In addition, refusing to accept submissions with these deficiencies allows Agency staff to more efficiently process submissions and quickly move those submissions without these deficiencies into review of substantial scientific issues.

List of Subjects in 21 CFR Part 1105

Administrative practices and procedures, Tobacco, Tobacco products.

Therefore, under the Federal Food, Drug, and Cosmetic Act, and under authority delegated to the Commissioner of Food and Drugs, 21 CFR chapter I is amended by adding part 1105 to subchapter K to read as follows:

PART 1105—GENERAL

Subpart A—General Submission Requirements

Sec.

1105.10 Refusal to accept a premarket tobacco product submission.

Authority: 21 U.S.C. 371(a), 387e, 387j, and 387k.

Subpart A—General Submission Requirements

§ 1105.10 Refusal to accept a premarket tobacco product submission.

(a) FDA will refuse to accept for review, as soon as practicable, a premarket tobacco product application; modified risk tobacco product application; substantial equivalence application; or exemption request or subsequent abbreviated report for the following reasons, if applicable:

(1) The submission does not pertain to a tobacco product as defined in 21 U.S.C. 321(rr).

(2) The submission is not in English or does not contain complete English translations of any information submitted within.

(3) If submitted in an electronic format, the submission is in a format that FDA cannot process, read, review, and archive.

(4) The submission does not contain contact information, including the applicant's name and address.

(5) The submission is from a foreign applicant and does not identify an authorized U.S. agent, including the agent's name and address, for the submission.

(6) The submission does not contain a required FDA form(s).

(7) The submission does not contain the following product-identifying information: The manufacturer of the tobacco product; the product name, including the brand and subbrand; the product category and subcategory; package type and package quantity; and characterizing flavor.

(8) The type of submission is not specified.

(9) The submission does not contain a signature of a responsible official, authorized to represent the applicant who either resides in or has a place of business in the United States.

(10) For premarket tobacco applications, modified risk tobacco product applications, substantial equivalence applications, and exemption requests only: The submission does not include an environmental assessment, or a valid claim of categorical exclusion in accordance with part 25 of this chapter.

(b) If FDA finds that none of the reasons in paragraph (a) of this section exists for refusing to accept a premarket submission, FDA may accept the submission for processing and further review. FDA will send to the submitter an acknowledgement letter stating the submission has been accepted for processing and further review and will provide the premarket submission tracking number.

(c) If FDA finds that any of the reasons in paragraph (a) of this section exist for refusing to accept the submission, FDA will notify the submitter in writing of the reason(s) and that the submission has not been accepted, unless insufficient contact information was provided.

Dated: August 1, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–18534 Filed 8–5–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2016–0747]

Drawbridge Operation Regulation; Umpqua River, Reedsport, OR

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulations.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the US 101 Bridge across the Umpqua River, mile 11.1, at Reedsport, OR. The deviation is necessary to accommodate updating the electric control panels on the bridge. This deviation allows the US 101 Bridge to remain in the closed-to-navigation position during upgrades.

DATES: This deviation is effective from 7 a.m. on August 16, 2016 until 5 p.m. on August 18, 2016.

ADDRESSES: The docket for this deviation, [USCG–2016–0747] is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mr. Steven Fischer, Bridge Administrator, Thirteenth Coast Guard District; telephone 206–220–7282, email *d13-pf-d13bridges@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Oregon Department of Transportation requested that the US 101 Bridge, near Reedsport, Oregon, remain in the closed-to-navigation position to update the electric control panels. The US 101 Bridge crosses the Umpqua River at mile 11.1 and provides 36 feet of vertical clearance above mean high water when in the closed-to-navigation position. This deviation allows the US 101 Bridge to remain in the closed-to-navigation position and need not open for maritime traffic from 7 a.m. on August 16, 2016 until 5 p.m. August 18, 2016. The normal operating schedule of this bridge is detailed at 33 CFR 117.893(a).

Waterway usage on this part of the Umpqua River includes vessels ranging from occasional commercial tug and barge to small pleasure craft. ODOT has coordinated with local mariners in this regard, and no objections have been received. No immediate alternate route is available for vessels to pass. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessels can arrange their transits to minimize any impact caused by the temporary deviation. Vessels which do not require an opening of the bridge may continue to transit beneath the bridge during this repair period.

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

Dated: July 29, 2016.

Steven M. Fischer,

Bridge Administrator, Thirteenth Coast Guard District.

[FR Doc. 2016–18709 Filed 8–5–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2016–0670]

RIN 165–AA00

Safety Zones; Marine Events Held in the Sector Long Island Sound Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing nine temporary safety zones for fireworks displays within the Coast Guard Sector Long Island Sound (LIS) Captain of the Port (COTP) Zone. This temporary final rule is necessary to provide for the safety of life on navigable waters during these events. Entry into, transit through, mooring or anchoring within these regulated areas is prohibited unless authorized by COTP Sector Long Island Sound.

DATES: This rule is effective without actual notice from August 8, 2016 through September 03, 2016. For the purposes of enforcement, actual notice will be used July 30, 2016, through August 8, 2016.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2016–0670 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, contact Petty Officer Jay TerVeen, Prevention Department, Coast Guard Sector Long Island Sound, telephone (203) 468–4446, email *Jay.C.TerVeen@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
LIS Long Island Sound
NPRM Notice of Proposed Rulemaking
NAD 83 North American Datum 1983

II. Background Information and Regulatory History

This rulemaking establishes 9 safety zones for fireworks displays. Each event and its corresponding regulatory history are discussed below.

The Hoffman Wedding Fireworks Display is a first time marine event with no regulatory history.

The Pyro Engineering Inc. Fireworks Display is a first time marine event with no regulatory history.

The Sag Harbor Fire Department Fireworks Display is a recurring marine event with regulatory history. A safety zone was established for this event in 2015 via a temporary final rule entitled, ''Safety Zones; Marine Events held in the Sector Long Island Sound Captain of the Port Zone.'' This rulemaking was published on Friday, August 14, 2015 in the **Federal Register** (80 FR 48692).

The Montalbano Wedding Fireworks Display is a first time marine event with no regulatory history.

The Village of Saltaire Fireworks Display is a recurring marine event with regulatory history. A safety zone was established for this event in 2015 via a temporary final rule entitled, ''Special Local Regulations and Safety Zones; Marine Events held in the Sector Long Island Sound Captain of the Port Zone.'' This rulemaking was published on Monday, May 18, 2015 in the **Federal Register** (80 FR 28176).

The Baker Annual Summer Celebration is a first time marine event with no regulatory history.

The Gestal Wedding Fireworks Display is a first time marine event with no regulatory history.

The Clinton Chamber of Commerce Fireworks Display is a recurring marine event with regulatory history. A safety zone was established for this event in 2015 via a temporary final rule entitled, ''Safety Zones; Marine Events held in the Sector Long Island Sound Captain of

the Port Zone.'' This rulemaking was published on Friday, August 14, 2015 in the **Federal Register** (80 FR 48692).

The East Hampton Fire Department Fireworks Display is a recurring marine event with regulatory history and is cited in 33 CFR 165.151(9.1). This event has been included in this rule due to deviation from the cite date.

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM with respect to this rule because doing so would be impracticable. The event sponsors were late in submitting the marine event applications. These late submissions did not give the Coast Guard enough time to publish a NPRM, take public comments, and issue a final rule before these events take place. Thus, waiting for a comment period to run would inhibit the Coast Guard's mission to keep the ports and waterways safe.

Under 5 U.S.C. 553(d)(3), and for the same reasons stated in the preceding paragraph, the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this temporary rule under authority in 33 U.S.C. 1231. The Captain of the Port (COTP) Long Island Sound has determined that the safety zones established by this temporary final rule are necessary to provide for the safety of life on navigable waterways before, during, and after these scheduled events.

IV. Discussion of the Rule

This rule establishes 9 safety zones for ten fireworks displays. The location of these safety zones are as follows:

FIREWORKS DISPLAYS SAFETY ZONES

1	Hoffman Wedding Fireworks Display	Location: All waters of the Great South Bay, Babylon, NY within 1,000 feet of the fireworks barge in approximate position 40°41′1.13″ N., 073°18′40.07″ W. (NAD 83).
2	Pyro Engineering Inc. Fireworks Display	Location: All navigable waters of Great Peconic Bay, Southampton, NY, within 1,000 feet of the fireworks barge in approximate position 40°56′58″ N., 072°26′35″ W. (NAD 83).
3	Sag Harbor Fire Department Fireworks Display.	Location: All navigable waters of Sag Harbor Bay, Sag Harbor, NY within 200 feet of the land launch located in approximate position 41°00′02″ N., 072°17′02″ W. (NAD 83).
4	Montalbano Wedding Fireworks Display	Location: All navigable waters of Bellport Bay, Bellport, NY within 1,000 feet of the barge launch site in approximate position 40°44′45.72″ N., 072°56′14.16″ W. (NAD 83).
5	Village of Saltaire Fireworks Display	Location: All waters of the Great South Bay, Bayshore, NY within 600 feet of the fireworks barge in approximate position 40°38′38.60″ N., 073°12′05.06″ W. (NAD 83).
6	Baker Annual Summer Celebration	Location: All navigable waters of the Peconic River, Jamesport, NY, within 600 feet of the fireworks barge in approximate position 40°55′51.84″ N., 072°35′07.92″ W. (NAD 83).
7	Gestal Wedding Fireworks Display	Location: All navigable waters of the Long Island Sound, Greenwich, CT within 600 feet of the fireworks barge located in approximate position 40°59′57.36″ N., 073°37′54.37″ W. (NAD 83).
8	Clinton Chamber of Commerce Fireworks Display.	Location: All waters of Long Island Sound, Clinton, CT within 640 feet of the land launch site in approximate position 41°15′59″ N., 072°31′09″ W. (NAD 83).
9	East Hampton Fire Department Fireworks Display.	Location: All waters off Main Beach, East Hampton, NY within 1,000 feet of the land launch located in approximate position 40°56′44″ N., 072°11′17″ W. (NAD 83).

This rule prevents vessels from entering, transiting, mooring, or anchoring within the areas specifically designated as a safety zone and restricts vessel movement around the locations of the marine events to reduce the safety risks associated with it during the period of enforcement unless authorized by the COTP or designated representative.

The Coast Guard will notify the public and local mariners of these safety zones through appropriate means, which may include, but are not limited to, publication in the **Federal Register**, the Local Notice to Mariners, and Broadcast Notice to Mariners.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

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

The Coast Guard determined that this rulemaking is not a significant regulatory action for the following reasons: (1) The enforcement of these safety zones will be relatively short in duration; (2) persons or vessels desiring to enter these safety zones may do so with permission from the COTP LIS or a designated representative; (3) these safety zones are designed in a way to limit impacts on vessel traffic, permitting vessels to navigate in other portions of the waterway not designated

as a safety zone; and (4) the Coast Guard will notify the public of the enforcement of this rule via appropriate means, such as via Local Notice to Mariners and Broadcast Notice to Mariners to increase public awareness of this safety zone.

B. Impact on Small Entities

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

While some owners or operators of vessels intending to transit these regulated areas may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator. Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**.

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

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

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 100.T01–0670 to read as follows:

§ 165.T01–0670 Safety Zones; Marine Events held in the Sector Long Island Sound Captain of the Port Zone.

(a) *Location.* This section will be enforced at the locations listed for each event in Table 1 to § 165.T01–0670.

(b) *Enforcement period.* This rule will be enforced on the dates and times listed for each event in Table 1 to § 165.T01–0670.

(c) *Definitions.* The following definitions apply to this section: A ''designated representative'' is any Coast Guard commissioned, warrant, or petty officer of the U.S. Coast Guard who has been designated by the COTP, Sector Long Island Sound, to act on his or her behalf. The designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF–FM radio or loudhailer. ''Official patrol vessels'' may consist of any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP Sector Long Island Sound. In addition, members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

(d) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) In accordance with the general regulations in 33 CFR 165.23, entry into or movement within these zones is prohibited unless authorized by the COTP, Long Island Sound.

(3) Any vessel given permission to deviate from these regulations must comply with all directions given to them by the COTP Sector Long Island Sound, or the designated on-scene representative.

(4) Any vessel given permission to enter or operate in these safety zones must comply with all directions given to them by the COTP Sector Long Island Sound, or the designated on-scene representative.

(5) Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed.

TABLE 1 TO § 165.T01–0670

Fireworks Events*		
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1	Hoffman Wedding Fireworks Display	• Date: July 30, 2016. • Rain Date: July 31, 2016. • Time: 9:00 p.m. to 10:30 p.m. • Location: All waters of the Great South Bay, Babylon, NY within 1,000 feet of the fireworks barge in approximate position 40°41′1.13″ N., 073°18′40.07″ W. (NAD 83).
2	Pyro Engineering Inc. Fireworks Display	• Date: July 30, 2016. • Time: 9:00 p.m. to 10:15 p.m. • Location: All navigable waters of Great Peconic Bay, Southampton, NY, within 1,000 feet of the fireworks barge in approximate position 40°56′58″ N., 072°26′35″ W. (NAD 83).
3	Sag Harbor Fire Department Fireworks Display.	• Date: August 05, 2016. • Rain Date: August 06, 2016. • Time: 9:15 p.m. to 10:30 p.m. • Location: All navigable waters of Sag Harbor Bay, Sag Harbor, NY within 200 feet of the land launch located in approximate position 41°00′02″ N., 072°17′02″ W. (NAD 83).
4	Montalbano Wedding Fireworks Display ..	• Date: August 06, 2016. • Rain Date: August 07, 2016. • Time: 8:30 p.m. to 10:00 p.m. • Location: All navigable waters of Bellport Bay, Bellport, NY within 1,000 feet of the barge launch site in approximate position 40°44′45.72″ N., 072°56′14.16″ W. (NAD 83).
5	Village of Saltaire Fireworks Display	• Date: August 06, 2016. • Rain Date: September 03, 2016. • Time: 8:30 p.m. to 10:30 p.m. • Location: All waters of the Great South Bay, Bayshore, NY within 600 feet of the fireworks barge in approximate position 40°38′38.60″ N., 073°12′05.06″ W. (NAD 83).
6	Baker Annual Summer Celebration	• Date: August 13, 2016. • Rain Date: August 14, 2016. • Time: 8:30 p.m. to 9:40 p.m. • Location: All navigable waters of the Peconic River, Jamesport, NY, within 600 feet of the fireworks barge in approximate position 40°55′51.84″ N., 072°35′07.92″ W. (NAD 83).
7	Gestal Wedding Fireworks Display	• Date: August 13, 2016. • Time: 8:30 p.m. to 10:30 p.m. • Location: All navigable waters of the Long Island Sound, Greenwich, CT within 600 feet of the fireworks barge located in approximate position 40°59′57.36″ N., 073°37′54.37″ W. (NAD 83).
8	Clinton Chamber of Commerce Fireworks Display.	• Date: August 20, 2016. • Rain Date: August 21, 2016. • Time: 8:30 p.m. to 10:30 p.m. • Location: All waters of Long Island Sound, Clinton, CT within 640 feet of the land launch site in approximate position 41°15′59″ N., 072°31′09″ W. (NAD 83).
9	East Hampton Fire Department Fireworks Display.	• Date: August 27, 2016. • Rain Date: August 28, 2016. • Time: 8:45 p.m. to 10:15 p.m. • Location: All waters off Main Beach, East Hampton, NY within 1,000 feet of the land launch located in approximate position 40°56′44″ N., 072°11′17″ W. (NAD 83).

* All dates and times subject to change. Exact times and dates will be published in the Local Notice to Mariners.

Dated: July 19, 2016.

A.E. Tucci,

Captain, U.S. Coast Guard, Captain of the Port Sector Long Island Sound.

[FR Doc. 2016–18641 Filed 8–5–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2016–0709]

Safety Zones; Point to LaPointe Swim, Lake Superior, LaPointe, WI

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the Safety Zone for the Point to LaPointe Swim in LaPointe, WI on August 6, 2016. This action is necessary to protect participants and spectators during the Point to LaPointe Swim in Lake Superior between Bayfield, WI and LaPointe, WI. During the enforcement period, entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Duluth or his designated on-scene representative.

DATES: The regulations in 33 CFR 165.943(b) will be enforced from 7:15 a.m. through 10:15 a.m. on August 6, 2016.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email Lieutenant Junior Grade John Mack, Waterways Management Division, Coast Guard; telephone (218) 725–3818, email *John.V.Mack@uscg.mil*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce a safety zone for the annual Point to LaPointe Swim in 33 CFR 165.943(a)(7) from 7:15 a.m. until 10:15 p.m. August 6, 2016. This safety zone will include all waters between Bayfield, WI and Madeline Island, WI within an imaginary line created by the following coordinates: 46°48′50.97″ N., 090°48′44.28″ W., moving southeast to 46°46′44.90″ N., 090°47′33.21″ W., then moving northeast to 46°46′52.51″ N., 090°47′17.14″ W., then moving northwest to 46°49′03.23″ N., 090°48′25.12″ W. and finally running back to the starting point.

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Duluth or his designated on-scene representative. The Captain of the Port's designated on-scene representative may be contacted via VHF Channel 16.

This notice is issued under authority of 33 CFR 165.943 and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of the enforcement of this safety zone via Broadcast Notice to Mariners.

Dated: July 29, 2016.

E. E. Williams,

Commander, U.S. Coast Guard, Captain of the Port, Duluth.

[FR Doc. 2016–18480 Filed 8–5–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2015–1127]

RIN 1625–AA00

Safety Zone; 2016 Wings Over Vermont Air Show, Lake Champlain, Burlington, VT

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for an aerobatic demonstration over the navigable waters of Lake Champlain along the shoreline in Burlington, VT. This temporary safety zone will be necessary to protect spectators and vessels from hazards associated with the air show. Entry into, transit through, mooring or anchoring within this regulated area will be prohibited unless authorized by the Captain of the Port (COTP) Sector Northern New England (SNNE).

DATES: This rule is effective from 9 a.m. on August 12, 2014, through 6 p.m. on August 14, 2016.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–USCG–2015–1127 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rulemaking, call or email Chief Marine Science Technician Chris Bains, Waterways Management Division at Coast Guard Sector Northern New England, telephone (207) 347–5003, or email *Chris.D.Bains@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
SLR Special Local Regulation
U.S.C. United States Code
COTP Captain of the Port
NPRM Notice of Proposed Rulemaking

II. Background Information and Regulatory History

On April 19, 2016, the Coast Guard published an NPRM in the **Federal Register** titled 2016 Wings over Vermont Air Show (81 FR 22944). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action. No public comments or request for a public meeting were received during the NPRM process.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The COTP is establishing a safety zone for the Wings over Vermont Air Show from 9 a.m. to 6 p.m. on August 12–14, 2016 on Lake Champlain, along the shoreline of Burlington, VT. The safety zone will cover all navigable waters, extending to and including the breakwater bounded by the following coordinates: 44°29′24″ N./073°14′44″ W.; 44°29′24″ N./073°14′03″ W.; 44°28′56″ N./073°14′03″ W.; 44°28′50″ N./073°13′48″ W.; 44°28′12″ N./073°13′33″ W.; 44°27′47″ N./073°14′03″ W.; 44°27′25″ N./073°14′03″ W.; 44°27′25″ N./073°14′44″ W. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled 10 a.m. to 5 p.m. aerobatic displays. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The regulatory text appears at the end of this document.

The purpose of this rulemaking is to ensure the safety of spectator vessels and other traffic using the navigable waters near or around the designated aeronautical box.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

The Coast Guard has determined that this rule is not a significant regulatory action for the following reasons: The safety zone will be of limited duration and will only be in effect during a portion of three days, it will allow vessels to transit in waters directly adjacent to the safety zone, and coordinated efforts have been made to direct ferry traffic around the safety zone so not to disrupt regularly scheduled ferry service on Lake Champlain. Additionally, maritime advisories will be posted in the Local Notice to Mariners and the Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine Channel 16 prior to and during the entire duration of the enforcement period.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting a portion of three days and will prohibit entry into without permission from the COTP. Normally such actions are categorically excluded from further review under paragraph 34 of figure 2–1 of Commandant Instruction M16475.1D. A preliminary environmental analysis checklist supporting this is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T01–1127 to read as follows:

§ 165.T01–1127 Safety Zone; 2016 Wings Over Vermont Air Show, Lake Champlain; Burlington, VT.

(a) *Location.* The following area is a Safety Zone: All navigable waters, from surface to bottom, of Lake Champlain, Burlington, VT, within an aeronautical box extending to and including the breakwater bounded by the following coordinates: 44°29′24″ N./073°14′44″ W.; 44°29′24″ N./073°14′03″ W.; 44°28′56″ N./073°14′03″ W.; 44°28′50″ N./073°13′48″ W.; 44°28′12″ N./073°13′33″ W.; 44°27′47″ N./073°14′03″ W.; 44°27′25″ N./073°14′03″ W.; 44°27′25″ N./073°14′44″ W.

(b) *Enforcement period.* This safety zone described in paragraph (a) above will be enforced from 9 a.m. until 6 p.m. on August 12–14, 2016.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply. During the enforcement period, entry into, transiting, mooring, anchoring or remaining within this safety zone is prohibited unless authorized by the Captain of the Port or his designated representatives.

(2) Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port or his designated representatives.

(3) Persons and vessels may request permission to enter the safety zone by contacting the COTP or the COTP's designated representative on VHF–16 or via phone at 207–767–0303.

(4) The ''designated representative'' is any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port to act on his behalf. The on-scene representative may be on a Coast Guard vessel, a Coast Guard Auxiliary vessel, or onboard a local or state agency vessel that is authorized to act in support of the Coast Guard. Additionally, the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

(5) Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of the vessel must proceed as directed.

Dated: July 13, 2016.

M.A. Baroody,

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

[FR Doc. 2016–18535 Filed 8–5–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF EDUCATION

34 CFR Chapter II

[Docket ID ED–2016–OESE–0004; CFDA Number: 84.368A.]

Final Priorities—Enhanced Assessment Instruments

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Final priorities.

SUMMARY: The Assistant Secretary for Elementary and Secondary Education announces priorities under the Enhanced Assessment Instruments Grant program, also called the Enhanced Assessment Grants (EAG) program. The Assistant Secretary may use one or more of these priorities for competitions using funds from fiscal year (FY) 2016 and later years. These priorities are designed to support projects to improve States' assessment systems.

DATES: These priorities are effective September 7, 2016.

FOR FURTHER INFORMATION CONTACT: Donald Peasley, U.S. Department of Education, 400 Maryland Avenue SW., Room 3E124, Washington, DC 20202. Telephone: (202) 453–7982 or by email: *donald.peasley@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Purpose of Program: The purpose of the EAG program is to enhance the quality of assessment instruments and assessment systems used by States for measuring the academic achievement of elementary and secondary school students.

Program Authority: Section 6112 of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001 (NCLB), and section 1203(b)(1) of the ESEA, as amended by the Every Student Succeeds Act (Pub. L. 114–95) (ESSA).

We published a notice of proposed priorities for this program in the **Federal Register** on April 18, 2016 (81 FR 22550) (NPP). That notice contained background information and our reasons for proposing the particular priorities.

Except for minor revisions, there are no differences between the proposed priorities and these final priorities.

These priorities are for use in addition to those published in the 2011 notice of final priorities, requirements, definitions, and selection criteria (76 FR 21985) (2011 NFP) and the 2013 notice of final priorities, requirement, definitions, and selection criteria for this program (78 FR 31343) (2013 NFP).

Public Comment: In response to our invitation in the NPP, eight parties submitted comments on the proposed priorities.

We group major issues according to subject. Generally, we do not address technical and other minor changes.

Analysis of Comments and Changes: An analysis of the comments and of any changes in the priorities since publication of the NPP follows.

General

Comment: Five commenters expressed support for the proposed priorities and noted the potential for grants awarded under the EAG program to improve State assessment systems. Three commenters expressed views on how the Department should distribute awards across priorities under the EAG program. One commenter strongly recommended that Priority 2 be designated as an absolute priority in the EAG competition.

Discussion: We appreciate the support for these priorities and agree that projects funded under them will support States in continuously improving their assessment systems to measure college- and career-readiness. This notice establishes priorities that can be used in any future competition, but does not establish how those priorities are designated in any particular competition. For the competition funded with FY 2016 funds, as announced in the notice inviting applications published elsewhere in this issue of the **Federal Register**, Priorities 1, 2, and 3 will be competitive preference priorities. The grant application and competition process will determine the number and types of projects funded under each priority.

Changes: None.

Comment: One commenter encouraged the Department to consider requiring content developed under proposed projects to be made freely available to others. This commenter noted that, even if content is made publicly available, it is not always accessible due to the use of proprietary software or applications.

Discussion: We recognize the benefit of sharing work developed under the EAG program to serve as models and resources for other States, which is why Priorities 1 and 2 require an applicant responding to them to provide a dissemination plan. Sharing resources and lessons learned from grantees is a key goal of the grant program.

Additionally, the notice of final priorities, requirements, definitions, and selection criteria for this program published in the **Federal Register** on April 19, 2011 (76 FR 21985) (2011 NFP) includes a requirement that, unless otherwise protected by law or agreement as proprietary information, an eligible applicant awarded a grant under this program must make any assessment content (*i.e.,* assessments and assessment items) and other assessment-related instruments developed with funds from this competition freely available to States, technology platform providers, and others that request it for the purposes of administering assessments, provided that those parties receiving assessment content comply with consortium or State requirements for test or test item security.

Further, as with any grant, and consistent with 2 CFR 200.315, the Department reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, for Federal government purposes, the copyright in any work developed under a grant (or contract under a grant) in this program, and any rights of copyright to which a grantee or contractor purchases ownership with grant support.

As the Department has these tools available to require grantees to make publicly available work developed under the EAG program, we do not believe any related change to the priorities is necessary.

Changes: None.

Comment: One commenter encouraged the Department to explicitly advocate for innovative, efficient, accessible, and fair testing for English learners in each priority, including by: Including English language proficiency assessments in Priority 1; requiring grantees implementing projects under Priority 1 to include English learners and their families as a representative sample in any research and development activities and gather evidence that innovative item types are accessible to English learners; requiring projects under Priority 2 to include representation from English learners, parents of English learners, and teachers of English learners. The commenter expressed support for the requirement in Priority 3 that SEAs ensure tests are fair for all students and particularly commended the reference to English learners. The commenter also recommended requiring States proposing projects under Priority 3 to ensure that tests are fully transparent to English learners and their parents and to solicit feedback on the usefulness of assessments from English learners and their parents.

Discussion: The Department recognizes the unique needs of English learners and the importance of ensuring that they are included in State assessment systems and assessed fairly. Having an assessment system that validly, reliably, and fairly measures the academic achievement of all elementary and secondary school students is vital to providing necessary information to inform instructional decisions and program evaluation, and to improve outcomes for all students. These priorities are intended to benefit all students, including English learners and students with disabilities, by enhancing the quality of assessment instruments and systems used by States for measuring the academic achievement of all elementary and secondary school students.

For example, paragraph (a)(2) of Priority 1 requires applicants to ensure the validity, reliability, and fairness of the assessments and the comparability of student data; to meet this requirement, applicants will need to address how they will evaluate the fairness of their innovative item types for all students, including English learners. The Department believes that strong assessment audits, as required under Priority 3, will ensure that tests are fully transparent to all students and their parents and will include mechanisms for soliciting feedback from all students and their parents, including English learners.

Additionally, in the past, the Department has funded several projects that targeted improving the assessment of English language proficiency (see *www2.ed.gov/programs/eag/awards.html* for a complete listing of past awards made under this authority). Given that these grants are still active and the first English language proficiency assessments developed under these grants were administered for the first time in the 2015–2016 school year, the Department does not think it necessary to include a specific reference to English language proficiency assessments. Items for summative assessments in reading/language arts, mathematics, and science are the focus of this competition.

However, there is nothing that would preclude the submission of a proposal under these priorities that specifically addresses the assessment of English learners.

Changes: None.

Comment: None.

Discussion: The Department recognizes the benefit of sharing work developed under the EAG program with other States, which is why Priorities 1 and 2 require an applicant responding to them to provide a dissemination plan. However, the NPP did not include information regarding the content of such a dissemination plan. The Department believes that it is important to clarify for applicants the expectations of such a dissemination plan.

Changes: The Department added language to Priorities 1 and 2 to specify that applicants must propose dissemination plans to share lessons learned and best practices.

Priority 1—Developing Innovative Assessment Item Types and Design Approaches

Comment: Two commenters proposed including additional innovative assessment item types in this priority. One commenter suggested that obtaining information on students' English language proficiency through a content assessment could be listed as an example of an innovation. Another commenter recommended that the Department include assessments that measure student behaviors and goals (*e.g.,* persistence or dependability) in this priority, in addition to mastery of academic content.

Discussion: While the Department included examples of new innovative item types, such as performance tasks, simulations, and interactive, multi-step, technology-rich items, applicants may propose projects to develop other kinds of innovative item types as long as they meet the requirements of the priority. As such, we do not include a comprehensive list of innovative item types or design approaches a State could choose to develop. The statutory authority for this program specifically references the assessment of academic achievement, and the assessment systems developed by States to meet the requirements under title I, part A of the ESEA must measure the academic achievement of students in, at a minimum, reading/language arts, mathematics, and science. As a result, the Department believes it would not be appropriate to exclusively focus on innovative assessments that focused on non-academic skills.

Changes: None.

Comment: One commenter suggested adding a requirement to this priority that applicants articulate a theory of action for how innovative assessment systems and design approaches will support deeper student learning.

Discussion: The Department believes that innovative item types and modular assessment approaches allow students to gain valuable experience by demonstrating complex work and

critical thinking skills. Assessments can improve student learning by providing data that can support and inform instruction, particularly if the data are timely and targeted. However, the primary focus of the priority is developing new methods for measuring student knowledge and skills to determine college- and career-readiness. As such, the Department believes it is important for applicants to focus their proposals on the complex tasks of developing, evaluating, and implementing new, innovative item types or developing approaches to transforming traditional summative assessment forms into a series of modular assessment forms. The Department agrees with the commenter that developing a sound theory of action for any large research and development proposal in educational assessment is a good project planning tool, but does not believe it is necessary to explicitly make this a priority or requirement.

Changes: None.

Comment: One commenter recommended that the Department clarify the meaning of the term ''competency-based assessment'' to communicate that such an assessment supports competency-based determinations and is not a type of assessment.

Discussion: The Department appreciates this recommendation, but believes that clarification of the term ''competency-based assessment'' is not needed in the priority itself. The priority indicates that innovative item types may include those item types that can support competency-based assessments. This term, also used in the President's Testing Action Plan (see *www.ed.gov/news/press-releases/fact-sheet-testing-action-plan*), is used to describe a system of assessments that allows students to demonstrate their learning throughout the school year and focuses on the application of skills and knowledge. The Department believes that innovative item types, including performance tasks, can be useful as part of a competency-based assessment. In addition, the Department believes that the term is recognized by experts in the field but that there may be variations in how it is applied and that proposals should define this type of assessment in the context of the proposed design and plan of work.

Change: None.

Comment: One commenter suggested that the design of technology-based items, interactive tools, and user interfaces proposed in projects under this priority be based on a Principled Assessment Design framework that takes into account principles of universal design for learning.

Discussion: The priority requires applicants to ensure the quality, validity, reliability, and fairness of the assessment or assessment items and comparability of student data. The Department acknowledges that universal design for learning is a nationally recognized method for taking into account the needs of all students when designing an assessment item, test, or system and that this method can help to promote fairness in assessment, and also notes that assessments administered to fulfill the requirements of title I, part A of the ESEA, recently reauthorized by the ESSA, must address universal design for learning.

Changes: We revised this priority to include a reference to universal design for learning.

Priority 2—Improving Assessment Scoring and Score Reporting

Comment: One commenter suggested that we require applicants to present a high-quality plan for leveraging other Federal funds to improve educators' assessment literacy and support parental engagement.

Discussion: The Department agrees that assessment literacy and parent engagement in assessment systems are important goals. We also support States' efforts to carefully examine how Federal and other funding sources can best be leveraged to support their goals and to sustain work supported by time-limited grant funding. As part of the President's Testing Action Plan, the Department released a Dear Colleague Letter in February 2016 (see *www2.ed.gov/admins/lead/account/saa/16-0002signedcsso222016ltr.pdf*) that provides examples of how funds under titles I, II, III, and VI of the ESEA can be used to increase assessment literacy and parent engagement. However, in order to allow applicants flexibility to use appropriate funds to best meet their needs, we decline to prescribe that States use other Federal funding, in addition to any EAG funding awarded, for these purposes.

Changes: None.

Comment: One commenter recommended that assessment reporting be focused on ''stakeholders closest to students'' who can use the data to improve student learning.

Discussion: The Department agrees that it is important for information on student performance to be made available to stakeholders close to students, such as educators and parents, in a timely fashion and in a format that provides actionable information to guide instruction and supports for students. In paragraph (b) of Priority 2, the Department requires that States include educators and parents in the development of score reports and paragraph (b)(1)(ii) focuses on educators' and parents' assessment literacy.

Changes: None.

Comment: Two commenters recommended that the Department require States to develop both enhanced score reporting templates and digital mechanisms for communicating assessment results.

Discussion: The Department appreciates the support for this priority and agrees that it is important to improve the utility of information about student performance included in reports of assessment results. However, because we recognize that States have different goals and may already have initiatives underway to develop score reporting templates or digital mechanisms to communicate assessment results, we do not think it is appropriate to make both activities required under Priority 2.

Changes: None.

Comment: Two commenters provided several recommendations for how States could improve score reporting, particularly to meet parents' needs. For example, both commenters recommended that States share contextual information with parents through a cover letter accompanying the score report. One commenter also suggested that States: Include clear, actionable next steps for parents; ensure that information is communicated in parent-friendly language; prioritize the content of the score report to avoid overwhelming parents; seek parent feedback on score reporting materials; and ensure that reports are personalized and culturally sensitive.

Discussion: The Department believes that these comments provide helpful examples of how an applicant might address needs related to score reporting and improve the utility of information about student performance included in score reports.

Changes: We have revised this priority to include the commenters' suggestions regarding clear and actionable next steps for parents as an example.

Comment: One commenter suggested that the Department require or strongly incentivize States to provide training for educators on data and using data to inform instruction.

Discussion: The Department agrees that ensuring educators understand assessment data and can use that information to guide instruction and supports for students is an important part of making assessments worth

taking. The President's Testing Action Plan also highlights this as a key area of focus for States and districts. For this reason, we have included improving assessment literacy of educators and parents as one of the activities applicants could choose to include in projects proposed under this priority. However, because we recognize that States have different goals and may already have initiatives underway to support assessment literacy, we do not think it is appropriate to make this a required component of projects proposed under Priority 2.

Changes: We have included in Priority 2 examples of how applicants might improve assessment literacy by providing training on test development and interpretation of test scores.

Priority 3—Inventory of State and Local Assessment Systems

Comment: One commenter recommended that the Department remove Proposed Priority 3, given that States may use other Federal funds to conduct assessment audit activities.

Discussion: The Department agrees that there may be opportunities for States and local educational agencies (LEAs) to leverage other Federal funds to conduct assessment audit activities beginning with FY 2017, such as the State assessment grant funds authorized under section 1201 of the ESEA, as amended by the ESSA, and the dedicated funds for assessment audit work authorized under section 1202 of the ESEA, as amended by the ESSA. For this reason, the Department has: limited the amount of grant funding an applicant could receive under this priority; required that projects under Priority 3 be no longer than 12 months; and required that projects include a longer-term plan for implementation using other funding sources. However, the Department believes that funding grants under this priority presents a valuable opportunity for applicants to lay the groundwork for activities in this area and begin the important work of evaluating all assessments administered in the State and its LEAs.

Changes: None.

Comment: One commenter suggested that the Department reframe the priority to focus on assessment systems and clarify that the goal of assessment inventories is to ensure that States' balanced systems of assessments work together to provide information to relevant stakeholders.

Discussion: The Department believes that this priority, as written, already emphasizes the importance of analyzing entire assessment systems, rather than individual assessments. Assessment inventories proposed by applicants must include a review of all assessments at the Federal, State, and local levels and must include feedback from stakeholders on the entire assessment system.

The Department agrees that assessments should provide clear and actionable information about students' knowledge and skills to stakeholders. However, consistent with the President's Testing Action plan, we believe that assessment inventories should not be focused only on whether assessments provide feedback to stakeholders, but should also ensure that tests are high quality, worth taking, time limited, fair for all students, and tied to improved student learning.

Changes: None.

Comment: One commenter proposed that the Department remove the requirement that State educational agencies (SEAs) review State and LEA activities related to test preparation to make sure those activities are focused on academic content and not on test-taking skills.

Discussion: The Department believes that low-quality test preparation strategies are a poor use of students' time and that students perform best on high-quality assessments that measure critical thinking and complex skills when they have been exposed to strong instruction. As such, we maintain that ensuring that test preparation strategies and activities are focused on academic content instead of test-taking skills is an important part of reviewing and improving assessment systems.

Changes: None.

Comment: None.

Discussion: In the NPP, paragraph (a)(2) of Priority 3 indicated that the purpose of assessments is to help schools meet their goals. Although we believe that assessments provide valuable information about school performance and can help schools to assess progress toward their goals, the Department believes that assessments have other purposes that are important for applicants to consider as they address Priority 3.

Changes: The Department adjusted the language in paragraph (a)(2) of Priority 3 to reflect that assessments are intended to measure student achievement and identify gaps in students' knowledge and skills.

Final Priorities

Priority 1—Developing Innovative Assessment Item Types and Design Approaches

Under this priority, SEAs must:

(a) Develop, evaluate, and implement new, innovative item types for use in summative assessments in reading/language arts, mathematics, or science;

(1) Development of innovative item types under paragraph (a) may include, for example, performance tasks; simulations; or interactive, multi-step, technology-rich items that can support competency-based assessments or portfolio projects;

(2) Projects under this priority must be designed to develop new methods for collecting evidence about a student's knowledge and abilities and ensure the quality, validity, reliability, and fairness (such as by incorporating principles of universal design for learning) of the assessment and comparability of student data; or

(b) Develop new approaches to transform traditional, end-of-year summative assessment forms with many items into a series of modular assessment forms, each with fewer items than the end-of-year summative assessment.

(1) To respond to paragraph (b), applicants must develop modular assessment approaches which can be used to provide timely feedback to educators and parents as well as be combined to provide a valid, reliable, and fair summative assessment of individual students.

(c) Applicants proposing projects under either paragraph (a) or (b) must provide a dissemination plan to share lessons learned and best practices such that their projects can serve as models and resources that can be shared with other States.

Priority 2—Improving Assessment Scoring and Score Reporting

Under this priority, SEAs must:

(a) Develop innovative tools that leverage technology to score assessments;

(1) To respond to paragraph (a), applicants must propose projects to reduce the time it takes to provide test results to educators, parents, and students and to make it more cost-effective to include non-multiple choice items on assessments. These innovative tools must improve automated scoring of student assessments, in particular non-multiple choice items in reading/language arts, mathematics, or science; or

(b) Propose projects, in consultation with organizations representing parents (including parents of English learners and parents of students with disabilities), students, teachers, counselors, and school administrators to address needs related to score reporting and improve the utility of information about student performance included in reports of assessment results and

provide better and more timely information to educators and parents;

(1) To respond to paragraph (b), applicants must include one or more of the following in their projects:

(i) Developing enhanced score reporting templates or digital mechanisms for communicating assessment results and their meaning (such as by providing clear and actionable next steps for parents);

(ii) Improving the assessment literacy of educators and parents to help them interpret test results and to support teaching and learning in the classroom (such as by providing training on test development and interpretation of test scores); and

(iii) Developing mechanisms for secure transmission and individual use of assessment results by teachers, students, and parents.

(c) Applicants proposing projects under either paragraph (a) or (b) must provide a dissemination plan for sharing lessons learned and best practices such that their projects can serve as models and resources that can be shared with other States.

Priority 3—Inventory of State and Local Assessment Systems

(a) Under this priority, SEAs must—

(1) Review statewide and local assessments to ensure that each test is of high quality, maximizes instructional goals, has a clear purpose and utility, and is designed to help students demonstrate mastery of State standards;

(2) Determine whether assessments are serving their intended purpose to measure student achievement and identify gaps in students' knowledge and skills and to eliminate redundant and unnecessary testing; and

(3) Review State and LEA strategies and activities related to test preparation to make sure those strategies and activities are focused on academic content and not on test-taking skills.

(b) To meet the requirements in paragraph (a), SEAs must ensure that tests, including statewide and local assessments are—

(1) Worth taking, meaning that assessments are a component of good instruction and require students to perform the same kind of complex work they do in an effective classroom and the real world;

(2) High quality, resulting in actionable, objective information about students' knowledge and skills, including by assessing the full range of relevant State standards, eliciting complex student demonstrations or applications of knowledge, providing an accurate measure of student achievement, and producing information that can be used to measure student growth accurately over time;

(3) Time-limited, in order to balance instructional time and the need for assessments, for example, by eliminating duplicative assessments and assessments that incentivize low-quality test preparation strategies that consume valuable classroom time;

(4) Fair for all students and used to support equity in educational opportunity by ensuring that accessibility features and accommodations level the playing field so tests accurately reflect what all students, including students with disabilities and English learners, know and can do;

(5) Fully transparent to students and parents, so that States and districts can clearly explain to parents the purpose, the source of the requirement (if appropriate), and the use by teachers and schools, and provide feedback to parents and students on student performance; and

(6) Tied to improving student learning as tools in the broader work of teaching and learning.

(c) Approaches to assessment inventories under paragraph (a) must include:

(1) Review of the schedule for administration of all assessments required at the Federal, State, and local levels;

(2) Review of the purpose of, and legal authority for, administration of all assessments required at the Federal, State, and local levels; and

(3) Feedback on the assessment system from stakeholders, which could include information on how teachers, principals, other school leaders, and administrators use assessment data to inform and differentiate instruction, how much time teachers spend on assessment preparation and administration, and the assessments that administrators, teachers, principals, other school leaders, parents, and students do and do not find useful.

(d) Projects under this priority—

(1) Must be no longer than 12 months;

(2) Must include a longer-term project plan, understanding that, beginning with FY 2017, there may be dedicated Federal funds for assessment audit work as authorized under section 1202 of the ESEA, as amended by the ESSA, and understanding that States and LEAs may use other Federal funds, such as the State assessment grant funds, authorized under section 1201 of the ESEA, as amended by the ESSA, consistent with the purposes for those funds, to implement such plans; and

(3) Must have a budget of $200,000 or less.

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use one or more of these priorities, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

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

(3) Materially alter the budgetary impacts of entitlement 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 stated in the Executive order.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing these final priorities only on a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

The priorities included in this notice would benefit students, parents, educators, administrators, and other stakeholders by improving the quality of State assessment instruments and systems. Priority 1 will yield new, more authentic methods for collecting evidence about what students know and are able to do and provide educators with more individualized, easily integrated assessments that can support competency-based learning and other forms of personalized instruction. Priority 2 will allow for States to score non-multiple choice assessment items more quickly and at a lower cost and ensure that assessments provide timely, actionable feedback to students, parents, and educators. Priority 3 will encourage States to ensure that assessments are of high quality, maximize instructional goals, and have clear purpose and utility. Further, it will encourage States to eliminate unnecessary or redundant tests.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: August 1, 2016.

Ann Whalen,

Senior Advisor to the Secretary, Delegated the Duties of Assistant, Secretary for Elementary and Secondary Education.

[FR Doc. 2016–18530 Filed 8–5–16; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2009–0234; FRL–9950–31–OAR]

40 CFR Parts 60 and 63

Reconsideration on the Mercury and Air Toxics Standards (MATS) and the Utility New Source Performance Standards Startup and Shutdown Provisions; Final Action

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final action denying petitions for reconsideration.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is providing notice that it has responded to two petitions for reconsideration of the final rule titled ''Reconsideration of Certain Startup/Shutdown Issues: National Emission Standards for Hazardous Air Pollutants (NESHAP) From Coal- and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance (NSPS) for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units,'' published in the **Federal Register** on November 19, 2014. The Administrator denied the requests for reconsideration in separate letters to the petitioners. The letters and a document providing a full explanation of the agency's rationale for each denial is in the docket for these rules.

DATES: August 8, 2016.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Eddinger, Sector Policies and Programs Division (D243–01), Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–5426; fax number: (919) 541–5450; email address: *eddinger.jim@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. How can I get copies of this document and other related information?

This **Federal Register** document, the petitions for reconsideration, the letters denying the petitions for reconsideration, and the document titled ''Denial of Petitions for Reconsideration of Certain Startup/Shutdown Issues: MATS'' (Reconsideration Response Document) are available in the dockets the EPA established under Docket ID No. EPA–HQ–OAR–2009–0234. The Reconsideration Response Document is available in the MATS docket by conducting a search of the title ''Denial of Petitions for Reconsideration of Certain Startup/Shutdown Issues: MATS.'' All documents in the dockets are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the EPA Docket Center (EPA/DC), Room 3334, EPA WJC West Building, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744 and the telephone number for the Air Docket is (202) 566–1742. This **Federal Register** document and the Reconsideration Response Document denying the petitions can also be found on the EPA's Web site at *https://www.epa.gov/mats.*

II. Judicial Review

Section 307(b)(1) of the Clean Air Act (CAA) indicates which Federal Courts of Appeals have venue for petitions for review of final EPA actions. This section provides, in part, that the petitions for review must be filed in the United States Court of Appeals for the District of Columbia Circuit if: (i) The agency action consists of ''nationally applicable regulations promulgated, or final action taken, by the Administrator,'' or (ii) such actions are locally or regionally applicable, if ''such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination.''

The EPA's actions denying the petitions for reconsideration are nationally applicable because the underlying rules—the ''National Emission Standards for Hazardous Air Pollutants (NESHAP) From Coal- and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance (NSPS) for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units,'' are nationally applicable. Thus, any petitions for review of the EPA's decisions denying petitioners' requests for reconsideration must be filed in the United States Court of Appeals for the District of Columbia Circuit by October 7, 2016.

III. Description of Action

On February 16, 2012, pursuant to sections 111 and 112 of the CAA, the EPA published the final rules titled ''National Emission Standards for Hazardous Air Pollutants From Coal- and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units'' (77 FR 9304). The NESHAP issued pursuant to CAA section 112 is referred to as the Mercury and Air Toxics Standards (MATS), and the NSPS rule issued pursuant to CAA section 111 is referred to as the Utility NSPS. Following promulgation of the final rules, the Administrator received petitions for reconsideration of numerous provisions of both MATS and the Utility NSPS pursuant to CAA section 307(d)(7)(B). The EPA received 20 petitions for reconsideration of the MATS rule and 3 petitions for reconsideration of the Utility NSPS.

On November 30, 2012, the EPA issued a proposed rule reconsidering certain new source limits in MATS, the requirements applicable during periods of startup and shutdown for MATS and the Utility NSPS (for the particulate matter standard only), certain definitional and monitoring issues in the Utility NSPS, and additional technical corrections to both MATS and the Utility NSPS (77 FR 71323). On April 24, 2013, the EPA issued the final action on reconsideration of the new source MATS, the definitional and monitoring provisions in the Utility NSPS, and the technical corrections in both rules (78 FR 24073). The EPA issued the final action on reconsideration of the startup and shutdown provisions in the MATS and Utility NSPS on November 19, 2014 (79 FR 68777).

The EPA received two petitions for reconsideration of the November 19, 2014, final action on reconsideration of the startup and shutdown provisions in the MATS rule. One petition was submitted by the Environmental Integrity Project, the Chesapeake Climate Action Network, and the Sierra Club, and the other was submitted by the Utility Air Regulatory Group.

CAA section 307(d)(7)(B) states that ''[o]nly an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review. If the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within such time or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule, the Administrator shall convene a proceeding for reconsideration of the rule and provide the same procedural rights as would have been afforded had the information been available at the time the rule was proposed.''

The EPA carefully reviewed the petitions for reconsideration and evaluated all issues raised to determine if they meet the CAA section 307(d)(7)(B) criteria for reconsideration. In separate letters to the petitioners, the EPA Administrator, Gina McCarthy, denied the petitions for reconsideration. The letters were accompanied by a separate Reconsideration Response Document that articulates in detail the rationale for the EPA's final responses. These documents are all available in the docket for this action.

Dated: July 29, 2016.

Gina McCarthy,

Administrator.

[FR Doc. 2016–18684 Filed 8–5–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2013–0696; FRL–9950–26–OAR]

RIN 2060–AS86

Technical Amendments to Performance Specification 18 and Procedure 6

AGENCY: Environmental Protection Agency (EPA).

ACTION: Partial withdrawal of direct final rule.

SUMMARY: Because the Environmental Protection Agency (EPA) received adverse comment, we are withdrawing a portion of the May 19, 2016, direct final rule that made several minor technical amendments to the performance specifications and test procedures for hydrogen chloride (HCl) continuous emission monitoring systems (CEMS). The adverse comments related to revisions to Procedure 6 and thus the EPA is withdrawing the portion of the direct final rule that revised Procedure 6.

DATES: Effective August 8, 2016, the EPA withdraws the revisions to Procedure 6, sections 4.1.5, 4.1.5.1, 4.1.5.3, and 5.2.4.2, published at 81 FR 31515, on May 19, 2016.

FOR FURTHER INFORMATION CONTACT: Ms. Candace Sorrell, U.S. EPA, Office of Air Quality Planning and Standards, Air Quality Assessment Division, Measurement Technology Group (Mail Code: E143–02), Research Triangle Park, NC 27711; telephone number: (919) 541–1064; fax number: (919) 541–0516; email address: *sorrell.candace@epa.gov.*

SUPPLEMENTARY INFORMATION: On May 19, 2016, the EPA published a direct final rule that makes minor technical amendments to the performance specifications and test procedures for hydrogen chloride (HCl) continuous emission monitoring systems (CEMS). 81 FR 31515. In the direct final rule, the EPA stated that if we received adverse comment by July 5, 2016, the EPA would publish a timely withdrawal and address the comments in a subsequent final rule based on the proposed rule also published on May 19, 2016 (81 FR 31577). The May 19, 2016, direct final rule noted that if the EPA received adverse comment on an amendment, paragraph, or section of this rule and, if that provision may be severed from the remainder of the rule, the EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

In this instance, the EPA received an adverse comment on an amendment to the quality assurance provision in Procedure 6, related to above span requirements. 81 FR 31517. The portions of the direct final rule revising Performance Standard 18 are severable from the revisions to Procedure 6. Thus, the EPA is only withdrawing the revisions to Procedure 6. The EPA will address the comment in a subsequent final action, which will be based on the parallel proposed rule also published on May 19, 2016 (81 FR 31515). As stated in the parallel proposal, we will not institute a second comment period on this proposed action. The revisions to Performance Standard 18 in the May 19, 2016, direct final rule are not affected and will become effective on August 17, 2016, as provided in the direct final rule.

List of Subjects in 40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Continuous emission monitoring systems, Hydrogen chloride, Performance specifications, Test methods and procedures.

Dated: July 28, 2016.

Janet G. McCabe,

Acting Assistant Administrator.

Accordingly, amendatory instruction 3 in the direct final rule published in the **Federal Register** on May 19, 2016, at 81 FR 31520, is withdrawn as of August 8, 2016.

[FR Doc. 2016–18682 Filed 8–5–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2015–0561; FRL–9949–19]

Flonicamid; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of flonicamid in or on hops, tree nuts (crop group 14–12 except pistachio), and pistachio. ISK Biosciences Corporation requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective August 8, 2016. Objections and requests for hearings must be received on or before October 7, 2016, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2015–0561, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

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

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation

and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2015–0561 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before October 7, 2016. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2015–0561, by one of the following methods:

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

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of October 21, 2015 (80 FR 63731) (FRL–9935–29), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 5F8369) by ISK Biosciences Corporation, 7470 Auburn Road, Suite A, Concord, Ohio 44077. The petition requested that 40 CFR 180.613 be amended by establishing tolerances for residues of the insecticide flonicamid, [(N-(cyanomethyl)-4-trifluoromethyl)-3-pyridinecarboxamide) or (N-cyanomethyl-4-trifluoromethylnicotinamide (IUPAC))], in or on hops at 20 parts per million (ppm), tree nuts (crop group 14–12) except pistachio at 0.15 parts per million (ppm), pistachio at 0.60 parts per million (ppm). That document referenced a summary of the petition prepared by ISK Bioscience Corporation, the registrant, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

III. Aggregate Risk Assessment and Determination of Safety

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

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for flonicamid including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with flonicamid follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by flonicamid as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies are discussed in the final rule published in the **Federal Register** of November 14, 2012 (77 FR 67771) (FRL–9368–7).

B. Toxicological Points of Departure/Levels of Concern

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

A summary of the toxicological endpoints for flonicamid used for human risk assessment is discussed in Unit III.B of the final rule published in the **Federal Register** of November 14, 2012.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to flonicamid, EPA considered exposure under the petitioned-for tolerances as well as all existing flonicamid tolerances in 40 CFR 180.613. EPA assessed dietary exposures from flonicamid in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. No such effects were identified in the toxicological studies for flonicamid; therefore, a quantitative

acute dietary exposure assessment is unnecessary.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA's National Health and Nutrition Examination Survey, What We Eat in America, (NHANES/WWEIA). As to residue levels in food, the chronic dietary exposure assessment was a conservative assessment conducted using tolerance-level residues, conservative ground water/drinking water estimates, and 100 percent crop treated (PCT).

iii. *Cancer.* Based on the data referenced in Unit III.A., EPA has concluded that flonicamid does not pose a cancer risk to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue and PCT information.* EPA did not use anticipated residue and/or PCT information in the dietary assessment for flonicamid. Tolerance level residues and/or 100 PCT were assumed for all food commodities.

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for flonicamid in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of flonicamid. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm.*

The drinking water assessment was conducted using both a parent only exposure, and a total toxic residue approach, which considers the parent compound and its major degradates of concern. Total toxic residues include 4-trifluoromethylnicotinic acid (TFNA), 4-trifluoromethylnictinamide (TFNA–AM), 6-hydro-4-trifluoromethylnicotinic acid (TFNA–OH), *N*-(4-trifluoromethylnicotinoyl)glycine (TFNG), and *N*-(4-trifluoromethylnicotinoyl)glycinamide (TFNG-AM).

Based on the Pesticide Root Zone Model Ground Water (PRZM GW), the estimated drinking water concentrations (EDWCs) of flonicamid for chronic exposures for non-cancer assessments are estimated to be 0.94 parts per billion (ppb) for surface water and 9.92 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For chronic dietary risk assessment, the water concentration of value 9.92 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Flonicamid is not registered for any specific use patterns that would result in residential exposure.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' EPA has not found flonicamid to share a common mechanism of toxicity with any other substances, and flonicamid does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that flonicamid does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the Food Quality Protection Act Safety Factor (FQPA SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* The prenatal and postnatal toxicity database for flonicamid includes prenatal developmental toxicity studies in rats and rabbits and a multi-generation reproduction toxicity study in rats. There is no evidence of increased susceptibility (qualitative or quantitative) in rats or rabbits exposed to flonicamid *in utero* in the prenatal developmental studies or in young rats in the multi-generation reproduction study. No developmental effects were seen in rabbits. In the multi-generation reproduction study, developmental delays in the offspring (decreased body weights, delayed sexual maturation) were seen only in the presence of parental toxicity (kidney and blood effects). Also, there are clear NOAELs and LOAELs for all effects. The degree of concern for prenatal and/or postnatal susceptibility is, therefore, low due to the lack of evidence of qualitative and quantitative susceptibility.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X, except as noted below. That decision is based on the following findings:

i. The toxicity database for flonicamid is nearly complete. The database is missing a subchronic inhalation study. A subchronic inhalation study is required because the use of an oral POD results in MOEs which do not meet the target MOE for a waiver (MOE=1,000). The Agency notified the registrant of the Data Call-In (DCI) for the 28-day inhalation study on January 5, 2016 and is awaiting submission of the study. In the absence of a subchronic inhalation study, EPA has retained a 10X FQPA SF to assess risks for inhalation exposure scenarios. However, residential inhalation exposures are not expected.

ii. The available data base for flonicamid includes acute and subchronic neurotoxicity studies. As discussed in Unit III.A., EPA has concluded that the clinical signs observed in those studies were not the result of a neurotoxic mechanism and therefore a developmental neurotoxicity study is not required.

iii. There is no evidence that flonicamid results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2-generation reproduction study.

iv. There are no residual uncertainties identified in the exposure databases. The chronic dietary food exposure assessment was based on 100 PCT and tolerance-level residues. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to flonicamid in drinking water. These assessments will not underestimate the exposure and risks posed by flonicamid.

E. Aggregate Risks and Determination of Safety

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

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. No adverse effect resulting from a single oral exposure was identified and no acute dietary endpoint was selected. Therefore, flonicamid is not expected to pose an acute risk.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to flonicamid from food and water will utilize 30% of the cPAD for children 1–2 years old, the population group receiving the greatest exposure. There are no residential uses for flonicamid. Based on the explanation in Unit III.C.3., regarding residential use patterns, chronic residential exposure to residues of flonicamid is not expected.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). A short-term adverse effect was identified; however, flonicamid is not registered for any use patterns that would result in short-term residential exposure. Short-term risk is assessed based on short-term residential exposure plus chronic dietary exposure. Because there is no short-term residential exposure and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess short-term risk), no further assessment of short-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating short-term risk for flonicamid.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). An intermediate-term adverse effect was identified; however, flonicamid is not registered for any use patterns that would result in intermediate-term residential exposure. Intermediate-term risk is assessed based on intermediate-term residential exposure plus chronic dietary exposure. Because there is no intermediate-term residential exposure and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess intermediate-term risk), no further assessment of intermediate-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating intermediate-term risk for flonicamid.

5. *Aggregate cancer risk for U.S. population.* Based on the information referenced in Unit III.A., EPA has concluded that the cPAD is protective of possible cancer effects from flonicamid, and as evidenced in Unit III.E.2, aggregate exposure to flonicamid is below the cPAD.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to flonicamid residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (FMC Method No. P–3561M, a liquid chromatography with tandem mass spectrometry (LC/MS/MS) method) is available to enforce the tolerance expression for flonicamid and its metabolites in or on plant commodities.

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not proposed an MRL for flonicamid in or on pistachio. The Codex has established an MRL for flonicamid in or on hops at 20.0 ppm. These MRLs are the same as the tolerances established for flonicamid in the United States. The Codex has also established MRLs for flonicamid in or on almond and pecan at 0.01 ppm. These MRLs are different than the tolerances established for flonicamid in the United States. The U.S. cannot harmonize the Nut, tree, group 14–12, except pistachio tolerance with the Codex MRLs on pecan and almond because residue field trial data show residues well above 0.01 ppm.

C. Revisions to Petitioned-For Tolerances

The Agency is removing certain commodities from the table at § 180.613 (a) to eliminate redundancies upon the establishment of new crop group tolerances that were not identified in the petition: Cucumber at 1.5 ppm and okra at 0.40 ppm.

V. Conclusion

Therefore, tolerances are established for residues of flonicamid, [(N-(cyanomethyl)-4-trifluoromethyl)-3-pyridinecarboxamide) or (N-cyanomethyl-4-trifluoromethylnicotinamide (IUPAC))], in or on hops at 20.0 ppm, tree nuts (crop group 14–12) except pistachio at 0.15 ppm, and pistachio at 0.60 ppm.

Also, as a housekeeping measure, the Agency is removing three individual tolerances that are subsumed within other crop group tolerances contained in § 180.613: Cucumber at 1.5 ppm is superseded by inclusion in the established vegetable, cucurbit, group 9 tolerance at 1.5 ppm; and okra at 0.40 ppm is superseded by inclusion in the established vegetable, fruiting, group 8–10 tolerance at 0.40 ppm.

VI. Statutory and Executive Order Reviews

This action establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under

Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: July 26, 2016.

Daniel J. Rosenblatt,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. In § 180.613, amend the table in paragraph (a)(1) as follows:

■ a. Remove the commodities ''Cucumber'' and ''Okra''.

■ b. Revise the commodities ''Hop, dried cones'' and ''Nut, Tree, group 14–12''.

■ c. Add alphabetically the commodity ''Pistachio''.

The revisions and addition read as follows:

§ 180.613 Flonicamid; tolerances for residues.

(a) * * *

(1) * * *

Commodity	Parts per million
* * * * *	
Hop, dried cones	20.0
Nut, Tree, group 14–12 except pistachio	0.15
* * * * *	
Pistachio	0.60
* * * * *	

* * * * *

[FR Doc. 2016–18666 Filed 8–5–16; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary of the Interior

43 CFR Part 10

[NPS–WASO–NAGPRA–21514; PX.XVPAD0522.0.1]

RIN 1024–AE34

Civil Penalties Inflation Adjustments; Correction

AGENCY: Office of the Secretary, Interior.

ACTION: Interim final rule; correction.

SUMMARY: The Office of the Secretary of the Interior is correcting an interim final rule that appeared in the **Federal Register** on Tuesday June 28, 2016 (81 FR 41858). This rule adjusts the level of civil monetary penalties contained in U.S. Department of the Interior regulations implementing the Native American Graves Protection and Repatriation Act with an initial ''catch-up'' adjustment under the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 and Office of Management and Budget guidance. The corrections are administrative and procedural related to submitting comments.

DATES: This correction is effective August 8, 2016.

FOR FURTHER INFORMATION CONTACT: A.J. North, National Park Service, 1849 C Street NW., Washington, DC 20240, telephone: 202–513–7742.

SUPPLEMENTARY INFORMATION: In volume 81, number 124 of the **Federal Register** of Tuesday June 28, 2016 on page 41858, the following corrections are made:

1. On page 41858 the RIN in the heading is corrected to read as follows: 1024–AE34

2. On page 41858, in the second column, the text following

• *Federal eRulemaking Portal: http://www.regulations.gov.* is corrected to read: Search for the Docket Number DOI–2016–0004 or RIN 1024–AE34 and follow the instructions for submitting comments.

* * * * *

Dated: July 25, 2016.

Michael J. Bean,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2016–18643 Filed 8–5–16; 8:45 am]

BILLING CODE 4310–EJ–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2016–0002; Internal Agency Docket No. FEMA–8445]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

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

DATES: The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the tables in amended § 64.6.

ADDRESSES: The CSB is available at *http://www.fema.gov/fema/csb.shtm.*

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact Patricia Suber, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 400 C Street SW., Washington, DC 20472, (202) 646–4149.

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

In addition, FEMA publishes a Flood Insurance Rate Map (FIRM) that identifies the Special Flood Hazard Areas (SFHAs) in these communities. The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year on FEMA's initial FIRM for the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment procedures under 5 U.S.C. 553(b), are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

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

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

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

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

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

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

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

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

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

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

§ 64.6 [Amended]

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

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region III				
Maryland:				
Laurel, City of, Prince George's County.	240053	September 10, 1971, Emerg; November 1, 1978, Reg; September 16, 2016, Susp.	September 16, 2016	September 16, 2016.
Prince George's County, Unincorporated Areas.	245208	August 7, 1970, Emerg; August 4, 1972, Reg; September 16, 2016, Susp.	.....*do	Do.
Pennsylvania:				
Lower Augusta, Township of, Northumberland County.	421017	January 28, 1974, Emerg; August 1, 1979, Reg; September 16, 2016, Susp.	.....do	Do.
Northumberland, Borough of, Northumberland County.	420739	June 6, 1974, Emerg; February 2, 1977, Reg; September 16, 2016, Susp.	.....do	Do.
Point, Township of, Northumberland County.	421026	November 19, 1973, Emerg; May 2, 1977, Reg; September 16, 2016, Susp.	.....do	Do.
Rockefeller, Township of, Northumberland County.	421152	April 12, 1974, Emerg; April 1, 1986, Reg; September 16, 2016, Susp.	.....do	Do.
Sunbury, City of, Northumberland County.	420743	September 3, 1971, Emerg; July 18, 1977, Reg; September 16, 2016, Susp.	.....do	Do.
Upper Augusta, Township of, Northumberland County.	420745	January 19, 1973, Emerg; May 2, 1977, Reg; September 16, 2016, Susp.	.....do	Do.

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

Michael M. Grimm,

Assistant Administrator for Mitigation, Federal Insurance and Mitigation Administration, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2016–18510 Filed 8–5–16; 8:45 am]

BILLING CODE 9110–12–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 4

[GN Docket No. 15–206; FCC 16–81]

Improving Outage Reporting for Submarine Cables and Enhanced Submarine Outage Data

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission or FCC) adopts final rules of a Report and Order requiring submarine cable licensees to report service outages through the network outage reporting systems (NORS). In doing so, the FCC seeks to improve overall submarine cable reliability and resiliency by enhancing the FCC's visibility into the operational status of submarine cables, which will permit the FCC to track and analyze outage trends. The Report and Order requires all submarine cable licensees to report service outages to the FCC, defined as a failure or significant degradation in the performance of a licensee's cable service regardless of whether the traffic can be re-routed to an alternate path. Licensees must report outages, including those caused by planned maintenance, of a portion of a submarine cable system for more than 30 minutes, or the failure or significant degradation of any fiber pair lasing for four hours or more. Lastly, the Report and Order will improve submarine cable deployment conditions and resiliency through better coordination of inter-agency permit review.

DATES: This rule contains information collection requirements that has not been approved by the Office of Management and Budget. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date for this rule.

FOR FURTHER INFORMATION CONTACT: Peter Shroyer, Attorney Advisor, Public Safety and Homeland Security Bureau, (202) 418–1575 or *peter.shroyer@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order in GN Docket No. 15–206, adopted on June 24, 2016, and released on July 12, 2016. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street SW., Washington, DC 20554, or online at *http://transition.fcc.gov/Daily_Releases/Daily_Business/2016/db0712/FCC-16-81A1.pdf.* In this Report and Order, the FCC adopts final rules requiring submarine cable licensees to report service outages through the network outage reporting systems (NORS). In doing so, the FCC seeks to improve overall submarine cable reliability and resiliency by enhancing the FCC's visibility into the operational status of submarine cables, which will permit the FCC to track and analyze outage trends. The Report and Order requires all submarine cable licensees to report service outages to the FCC, defined as a failure or significant degradation in the performance of a licensee's cable service regardless of whether the traffic can be re-routed to an alternate path. Licensees must report outages, including those caused by planned maintenance, of a portion of a submarine cable system for more than 30 minutes, or the failure or

significant degradation of any fiber pair lasing for four hours or more. Lastly, the Report and Order will improve submarine cable deployment conditions and resiliency through better coordination of inter-agency permit review.

Synopsis

1. Report and Order

1. This Report and Order serves the public interest and promotes the national and economic security of the nation by requiring submarine cable licensees to report to the Federal Communications Commission (''Commission'' or ''FCC'') when submarine (or ''undersea'') cable outages occur and communications over those facilities are disrupted. By moving—as we do today—from an ad hoc outage reporting system to one that will ensure the Commission has a dependable, holistic view of the operating status of submarine cables, we will be in a better position to examine the resiliency posture of submarine cable infrastructure and to ensure the reliability of the critical national security and economic communications that transit it. In this Report and Order, we:

- Require submarine cable licensees to report to the Commission service outages, defined as ''a failure or significant degradation in the performance of a licensee's cable service regardless of whether the traffic can be re-routed to an alternate path.''
- Specify that an outage requires reporting when there is:
  - An outage, including those caused by planned maintenance, of a portion of a submarine cable system between submarine line terminal equipment (SLTE) at one end of the system and SLTE at another end of the system for more than 30 minutes; or
  - The failure or significant degradation of any fiber pair, including losses due to terminal equipment issues, on a cable segment for four hours or more, regardless of the number of fiber pairs that comprise the total capacity of the cable segment.
- Define the reporting requirements to include a Notification within eight hours (to become four hours after three years) of the time of determining that a reportable outage has occurred; an Interim Report within 24 hours of receiving a Plan of Work (relating to repairs); and a Final Report within seven days of completing repair.
- Clarify the content required in the reports to allow for the fact that not all requested information may be known when the reports are due.
- Treat the information provided through this reporting system as confidential, consistent with section 4.2 of our rules for existing outage reporting.
- Provide that these requirements will become effective six months after OMB approval of these rules to provide ample time for implementation.

2. *Background.* Submarine cables provide the conduit for the vast majority of voice, data and Internet connectivity between the mainland United States and consumers in Alaska, Hawaii, Guam, American Samoa, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands, as well as the connectivity between the United States and the rest of the world. Accordingly, the operation and maintenance of the approximately 60 undersea cables licensed in the United States are essential to the nation's economic stability, national security and other vital public interests. Presently, submarine cable licensees are not required to report on their cables' operational status. Rather, licensees provide such operational information to the Commission on a voluntary, ad hoc basis through the Commission's Undersea Cable Information System (UCIS). This ad hoc approach contrasts significantly with the Commission's part 4 outage reporting requirements for other communication services which require targeted information on the cause and effects of communications outages, establishes specific reporting triggers and thresholds, and provides deadlines for those reports to be made. Furthermore, the Network Outage Reporting System (NORS) established for part 4 data reporting has not previously provided the Commission with the necessary information to analyze undersea cable disruptions, as the system was designed for different types of infrastructure outage reporting, not submarine cable reporting, and lacks the data fields necessary to report on submarine cable infrastructure.

3. We find that a mandatory outage reporting regime is necessary to provide the Commission with greater visibility into the availability and health of these networks to allow it to better track and analyze submarine cable resiliency, and suggest or take appropriate actions when the data so indicate, *i.e.,* before there is a significant problem. The need for such reporting is only heightened when, as is the case with submarine cable infrastructure, the facilities are few, are vital to U.S. economic activity and national security, have unique vulnerabilities in their environment, and are exceptionally challenging to repair. Further, it is clear that UCIS has failed to become the comprehensive source of information about undersea cable outages it was intended to be: Few reports are filed; those that are filed are inconsistent from entity to entity; and the design of UCIS lacks the analytical capabilities necessary for the Commission to perform meaningful analysis.

4. We recognize that redundancies (*i.e.,* traffic re-route engineering) are already in place for many cables that prevent or at least mitigate service outages, but this argument misses the broader goal of the proposed mandatory reporting regime, which is that both the cables and the services provided over them must be protected. For the Commission to ensure the stability of submarine cable infrastructure, it must have greater visibility than what is currently provided through UCIS into the connectivity and capacity of all undersea cables landing in the United States. And, even though we recognize that the low number of reports filed in UCIS might be due to a low number of reportable outages, the record suggests otherwise. As mere examples, the outages discussed above are important evidence of how it is not only the number of outages, but rather, also the potential impact of the outages, as well as the deficit in the Commission's situational awareness of a major outage, that convince us that reporting needs to be mandatory and of the scope described herein. Accordingly, we adopt the mandatory reporting regime for undersea cable operators described below. This regime will replace UCIS in its entirety and we direct the Bureau to retire UCIS upon the effective date of these rules.

5. Reporting Obligations. To effectively achieve undersea cable infrastructure assurance, consistent with part 4 traditionally, we will define reportable outages without regard to a licensee's or provider's re-routing of the traffic carried over a given cable, or some other measure requiring a complete loss of service. Accordingly, we define ''outage'' as ''a failure or significant degradation in the performance of a licensee's cable service regardless of whether the traffic can be re-routed to an alternate path.''

6. Though there are redundant configurations in some, but not all submarine cable infrastructure, we adopt our proposal to require a reporting obligation regardless of whether traffic is re-routed, and we use the broader term ''path'' to avoid analysis of whether the traffic was specifically re-routed to another cable. For the purpose of promoting and advancing the national security and public safety interests served by our

U.S.-based landings and connections as a whole, we need to assess outages across the total undersea cable environment serving the United States. For example, in some situations the redundant paths could be over-utilized due to an emerging problem, such as an expansive coastline area disruption affecting several independent submarine cables. Using such an approach would help us understand operability of submarine cables holistically to better safeguard reliability of this important part of the nation's communications system.

7. We also modify our proposed definition to limit reportable events to failures or ''significant'' degradation in the performance of a communications provider's cable. As explained in the section below on outage reporting triggers, we are adjusting our metrics to require the reporting of only significantly degraded service and not all incidents of degraded service, which will better align our outage reporting rules for submarine cables with our current part 4 outage reporting requirements. Further, our adjustment to include ''significant'' degradation is consistent with our long established outage reporting requirement that an outage includes events where even ''some traffic might be getting through during a period of massive disruption'' (*See, e.g., Amendment of Part 63 of the Commission's Rules to Provide for Notification by Common Carriers of Service Disruptions,* CC Docket No. 91 273, Report and Order, 7 FCC Rcd 2010, 2010, para. 11 (1992).

8. Reportable Outage Metrics. We adopt a modified outage reporting metric to capture significant degradations and to simplify reporting in general. Under the originally proposed metric, events causing performance failures would not be reportable until all connectivity was lost. We therefore modify both proposed metrics, addressing the connectivity and capacity metrics to account for performance failures and events resulting from planned maintenance.

9. Connectivity is an important metric but we are persuaded to modify it to exclude reporting that could be burdensome and of limited value. Accordingly, we adopt a modified version of the connectivity metric proposed by the Submarine Cable Coalition and require reporting when there is an outage, including those caused by planned maintenance, of a portion of a submarine cable system between SLTE at one end of the system and SLTE at another end of the system for more than 30 minutes. We are persuaded to make this modification in order to limit the burdens caused by reporting routine terminal equipment issues that can be corrected rapidly. While the Submarine Cable Coalition does not specifically define the term ''SLTE'' in its comments, it is commonly understood to be part of the ''dry plant'' comprised of ''signal processing equipment and optical multiplexing equipment that allows transmission over the submarine cable.'' Thus, we focus on issues resulting in outages that fall between the SLTE due to problems with the ''wet plant,'' including the submarine cable, repeaters, optical equalizer, and branching unit. We believe 30 minutes, not three hours, is an appropriate timeframe to trigger a reporting obligation for such failures because damage or repair to facilities between the SLTE likely indicates a long-term problem that will not be cleared quickly, so there is no benefit to further delaying reporting.

10. Further, to simplify our original capacity metric (*i.e.,* reporting required when fifty percent or more of the capacity of the submarine cable, in either the transmit or receive mode, is lost for at least 30 minutes), we adopt a modification of our original proposal. In doing so, we also seek to create a reporting backstop that is broader than the connectivity metric described above and designed to capture events that affect even a single fiber pair, yet provide a longer window before the event becomes reportable. We adopt a metric requiring a report for the failure or significant degradation of any fiber pair, including losses due to terminal equipment issues, on a cable segment for four hours or more, regardless of the number of fiber pairs that comprise the total capacity of the cable segment. Because issues may arise at the landing station that will affect submarine cable system operation, we include outages that are due to SLTE failures.

11. Covered Entities. We adopt a requirement that all licensees, regardless of when the license was obtained, must comply with license conditions, including the outage reporting rules we now adopt. We agree with Docomo that there is no public policy reason to exempt submarine cable licensees from the obligation to report. All licensees are integral components in the provision of submarine cable infrastructure, and the Commission could not meet its goal of acquiring a comprehensive viewpoint of the operational status of all submarine cables if certain licensees were exempted. We believe with the flexibilities discussed below, pre-2002 licensees would be unlikely to have increased burden compared to post-2002 licensees. Most pre-2002 cables operate as a consortium. Consortium cables generally use construction and maintenance agreements (C&MA), which can be amended to incorporate new regulatory requirements as necessary. To the extent that extra flexibility or time is required to revise the C&MAs to ensure compliance with the outage reporting requirements adopted herein, we address that below.

12. In light of concerns raised regarding the operations of consortiums or that of a cable with multiple licensees, we choose to permit, but not require, a Responsible Licensee designation. We have made this decision to add flexibility to the Responsible Licensee system due to the concerns expressed about how our rules could be complicated given the nature of consortiums, including their size, domestic/foreign composition, potential language barriers, and time zone challenges, as well as how compliance review will add to costs for reporting. Consortium members are in the best position to determine which member is best placed to comply and meet the reporting obligation for the consortium, such as a U.S. landing operator or a Network Operations Center (NOC) operator. We agree with Verizon that under this approach, licensees and non-licensees, including those operating with pre-2002 licensees, are free to negotiate and allocate the underlying risk and financial responsibility. Nonetheless, should a Responsible Licensee be designated, it must register with and keep the Commission updated as to its Responsible Licensee status pursuant to our rules. We will hold the Responsible Licensee responsible for reporting compliance once designated and registered with the Commission.

13. If no Responsible Licensee is designated with the Commission or in effect at the time of an outage, each party experiencing a reportable outage can be held responsible for reporting and liable should the Commission need to pursue enforcement action. This is a departure from our proposal to hold all consortium members jointly and severally liable when a cable experiences an outage, in order to provide additional flexibility to covered providers. In this way we limit enforcement liability to those licensees experiencing an outage.

14. Content of Notification. We require licensees to provide a preliminary notification in NORS (all reports described herein are to be filed in NORS in a system designed specifically for submarine cable outage reporting) once it has been determined that an undersea cable outage has

occurred. We find that having awareness of an outage, even without certain information about that outage, helps achieve our goal of improving situational awareness as to the operational status of undersea cable networks. Reporting via widely available electronic means is affordably feasible and quite often a normal part of operations. As proposed in the *Notice,* notifications must contain the name of the reporting entity; the name of the cable and a list of all licensees for that cable; whether the event is planned or unplanned; and contact information for the Commission. We recognize, however, that access to information about the root cause, approximate location, and estimated duration of an outage will often be unavailable in the period immediately following an operator's determination that there has been an undersea cable outage. Accordingly, we modify our original proposal from the *Notice* and require such information only if known at the time of the notification.

15. We acknowledge that the root cause of an outage many times cannot be determined until after repair work is done, and only seldom is it known at the time of an outage. Accordingly, in their notifications licensees must provide a brief description of the event and need only include information on the root cause if known at the time. If the root cause is unknown, licensees should specify as such and provide further information where available in Interim or Final Reports.

16. With respect to the location of an outage, licensees must provide the name of the nearest cable landing station if known, as well as its best estimate of the location of the event, expressed in either, nautical miles and the direction from the nearest cable landing station, or in approximate latitude and longitude coordinates. We have added ''the direction from'' the nearest cable landing station (*e.g.,* 15 nautical miles west of [the cable landing station]'' to improve clarity in reporting, if known. We acknowledge that undersea cables traverse vast distances, and it can be a complicated and time-consuming task to determine the location of an undersea cable outage. Though we only proposed that licensees report the ''approximate location'' of an outage, we clarify that we do not seek to divert time and attention away from service restoration efforts by requiring licensees to provide this information. As with root cause information, licensees must provide this information if known at the time of the notification, and if unknown, licensees should provide further detail where possible in subsequent reports.

17. With respect to the duration of the event, licensees must provide their best estimate in the notification, but supplement with further information as it becomes available in their Interim or Final Reports. As with root cause and location information, our aim in including this information in the notification is to provide preliminary situational awareness in the immediate wake of an outage, which can be supplemented or corrected through later reports.

18. Timeframe for Notification. Again, we recognize that the determination of root cause, approximate location, and duration of an outage typically takes much longer than 120 minutes after the determination that an outage has occurred. Moreover, we agree with commenters that licensees' primary objective in the wake of an outage should be to restore service, and that reporting obligations should be subordinate to that objective. As discussed above, we modify our original notification proposal to require licensees to provide root cause information, approximate location, and estimated duration of an outage only when available. The notification process is intended to be preliminary in nature and simply provide notice of, not necessarily detail about, an undersea cable outage, for purposes of situational awareness.

19. We also emphasize that the timeframe for reporting starts upon ''the time of *determining* that an event is reportable'' and not necessarily the moment that an event *becomes* reportable. Several commenters, in arguing that the Commission's proposed notification timeframe is infeasible, point to difficulties in receiving the initial notification. For example, AT&T asserts that ''most notifications of the occurrence of outages on consortium cables that AT&T receives from foreign consortium parties are not provided within two hours of the cable failure.'' Even if the foregoing complications arose preventing a licensee from knowing of an outage when it became reportable, the licensee would only be ''on the clock'' to report the event when it determines (*i.e.,* has knowledge that) the event is reportable. This distinction should alleviate many of the concerns that licensees will need to implement new network monitoring processes.

20. We continue to believe that licensees can report within the proposed two-hour timeframe from determining that an event is reportable, particularly as they need not provide substantive detail on the root cause, location, or duration of the outage if unavailable at that time; we believe that quick notification is an essential element in achieving the Commission's goal of developing comprehensive situational awareness of submarine cable infrastructure. We additionally note our view that many of the submarine cable operators have the technical capabilities to near-instantly detect outages and are standard within the industry.

21. That said, given the support on the record for a longer notification timeframe and AT&T's statements that it will need time to implement these requirements with its consortium partners, we will initially, for a three year period from the effective date of these rules, require licensees to notify the Commission of an outage within eight hours of determining that an event is reportable. Three years after the effective date of these rules, licensees will be responsible for filing notifications within four hours of determining that an event is reportable. After three years, the Commission will open a proceeding to revisit. We find that allowing four hours from the time of determining an event is reportable, not when the event necessarily becomes reportable, is feasible, particularly as we have allowed for licensees to include approximations and best estimates in their filings. This phased-in approach will give licensees ample time to hone their reporting structure while still achieving the aforementioned goal of prompt situational awareness. A further elongated timeframe does not as adequately serve the Commission's goal of acquiring rapid situational awareness of submarine cable infrastructure.

22. Content of Interim Report. We adopt modified Interim Report content requirements to address concerns that a root cause may not always be known in this adjusted timeframe. We require licensees to report on all of the elements described above in the original proposal, observing that many of these elements (name of the reporting licensee; the name of the cable and a list of all licensees for that cable; the date and time of onset of the outage; and a contact name, contact email address, and contact telephone number by which the Commission's technical staff may contact the reporting entity) will be auto-filled from the Notification and thus will likely require no additional work on the part of the reporting entity barring administrative changes. These fields remain important for basic factual references and we see no reason to exclude them from the Interim Report. We will also continue to require a brief description of the event, including root cause; nearest cable landing station; approximate location of the event

(either, in nautical miles and the direction from the nearest cable landing station or in latitude and longitude); and the best estimate of the duration of the event. These are the fields that will supply the Commission with necessary situational awareness about the status of the outage, particularly when the information is updated from that which we received in the Notification. We depart slightly from our original proposal, however, and will now only require the root cause description if known at the time. We are persuaded by commenters' arguments that the root cause may need extended analysis and sometimes may not be known until the repair is completed. We have again added ''the direction from'' the nearest cable landing station (*e.g.,* ''15 nautical miles west of [the cable landing station]'' to improve clarity in reporting, if known. We emphasize that an approximate location of the event and best estimate of the duration of the event are all that is required; licensees will not be penalized for the later-determined accuracy of these interim responses if they are submitted in good faith. We also adopt our proposal that Interim Reports are not required for planned outages so long as the planned nature of the event was appropriately signaled in the Notification.

23. Timeframe for Interim Report. We adopt a modified reporting timeframe for the Interim Report. Accordingly, we will require licensees to file an Interim Report, if required, within 24 hours of receipt of the Plan of Work, which we believe strikes the appropriate balance between allowing licensees sufficient time for necessary coordination to amply inform the Commission with useful and timely information.

24. Final Report. In the *Notice,* we proposed to require licensees to file a Final Report seven days after the repair is completed. We proposed that the following elements be required in a Final Report: The name of the reporting entity; the name of the cable; whether the outage was planned or unplanned; the date and time of onset of the outage (for planned events, this is the start date and time of the repair); a brief description of the event; nearest cable landing station; approximate location of the event (either in nautical miles from the nearest cable landing station or in latitude and longitude); duration of the event; the restoration method; a contact name, contact email address, and contact telephone number by which the Commission's technical staff may contact the reporting entity.

25. The two components of the Final Report that differ from the Notification and the Interim Report are (1) the duration of the event and (2) the restoration method. The *Notice* proposed that this type of Final Report, with the inclusion of these two additional elements, would enable the Commission to work directly with communication providers using a data-driven method on collaborative reliability improvement initiatives that will produce measurable results for undersea cables.

26. Contents of Final Report. As with both the Notification and Interim Reports, we understand the commenters' concerns that particular information may not be known at the time the repairs have been completed given the complexities of undersea cable repairs. We also take into account that submarine cable licensees often work together in consortiums, and that although one member may know a certain element of the Final Report, the information may not make its way to other consortium members who are also experiencing an outage or disruption on the same cable. For these reasons, we adopt our proposals for the content reporting obligations for the Final Report, but with a modification for the ''brief description of the event.'' Here, in a Final Report, a licensee will need to provide the root cause in its brief description of the event only if known at the time of filing. Both Verizon and AT&T noted that in some cases, completion of the root cause analysis may not be known in the proposed timeframe, and in some instances, never be determined. Nonetheless, the Commission expects providers to conduct reasonable due diligence to ascertain the root cause of an event. We have also again added ''the direction from'' the nearest cable landing station (*e.g.,* ''15 nautical miles west of [the cable landing station]'') to improve clarity in reporting, if known.

27. After the submission of the Final Report, particular details of an event may become known or change as research is done and repairs are completed. In order for the Commission to obtain the most accurate information, previous Final Reports (and only Final Reports) must be supplemented after the Final Report if that information materially alters the previously reported material. Amendments to Final Reports should be made in good faith.

28. The parallels of the Final Report content to our existing part 4 rules, in conjunction with the NORS platform, create an efficient, streamlined and user-friendly system when implementing these new procedures. Furthermore, we believe that the contents of the Final Report would be easily compiled, as NORS interface automatically populates the fields where information required duplicates that of the Notification and Interim Report, so the reporting licensee would not have to reenter data unless it is to amend or edit a previously-supplied response. We note that the Commission recently adopted a *Further Notice of Proposed Rulemaking* which sought comment on applying a two-step reporting process to all covered services, which, if adopted, would apply to submarine cable outage reporting. Interested parties may file comments on this issue in the part 4 proceeding.

29. Timeframe for Final Report. We adopt our proposal to require licensees to file a Final Report seven calendar days after the repair is completed. There is substantial record support for requiring submission of this critical information within a week following the repair completion. The Commission has a responsibility to ensure the reliability and security of the nation's communications infrastructure, and obtaining timely information on communications service disruptions is essential to that goal.

30. We are not persuaded by the proposal to extend the deadline to a minimum of 45 days. We find that a majority of the information that must be included in a Final Report is readily available following the repair of the submarine cable. As mentioned above, the Commission is aware of the unique nature of submarine cable repairs, which is why the Final Report shall be amended, when necessary. Therefore, we decline to adopt Latam's proposal of a 45-day minimum for a Final Report deadline. The seven day requirement we adopt today provides the Commission critical network outage information within a reasonable time.

31. Good Faith Requirements in Section 4.11. We adopt substantially the same wording codified in Section 4.11 of our rules for the submarine cable outage reporting system. We are cognizant of the complexities and uncertainties that may arise with outages resulting from a damaged cable. However, the good faith and attestation requirements will not be violated if the authorized personnel submitting a report does in fact submit all of the information known to them, in good faith, at the time of reporting. Also, as made clear above, licensees have the duty to amend their Final Reports, in good faith, if the licensee later learns that the reported information is inaccurate. Accordingly, consistent with support from the record, we will require a good faith requirement and an attestation consistent with Section 4.11.

32. Confidentiality of Submarine Outage Reports and Data. We adopt our proposal that undersea cable reporting information is to be treated as presumptively confidential consistent with Section 4.2 of the Commission's rules governing outage reporting. Maintaining the confidentiality of submarine cable outage data is critical to safeguarding weaknesses or damage to our national communications infrastructure that could potentially facilitate enemies targeting our nation's key resources. The Communications Act of 1934 charges the Commission with promoting ''the safety of life and property through the use of wire and radio communication.'' (47 U.S.C. 151). Releasing detailed and sensitive information regarding submarine cable outages and disruptions would contradict this core mission of the Commission. We will, however, share information with DHS as is customary with our part 4 outage reports. This model is consistent with the Commission's past precedent for outage reporting and we do not see a need to depart here from that practice solely for submarine cable outage reporting.

33. We also note that the Commission recently adopted a *Further Notice of Proposed Rulemaking* addressing many of these same issues and has not yet decided if or how it will change its outage report information sharing practices more broadly. Interested parties may file comments on this issue in the part 4 proceeding. We believe that a broader proceeding is a better context for making decisions on how outage information should be shared more generally, and allow for submarine cable outage information sharing to be considered in that context. We also observe that initiating this program in a manner that is consistent with the confidentiality in other part 4 reporting would allow for reevaluation at a later date of a different approach.

34. Implementation. These rules will become effective six (6) months after OMB approval of this information collection, representing a balance between industry's needs to adequately prepare for these reporting requirements and the Commission's need to obtain timely situational awareness of the operational status of the nation's submarine cable infrastructure. As the incident in the CNMI has shown, the Commission cannot continue to wait for licensees to take advantage of the current voluntary approach. Yet, we find that a six month extension is warranted to allow those providers who did not previously report such outages to develop processes for doing so. We also recognize that consortium members may need additional time to determine reporting structures. We do not believe extending the rule implementation date beyond six months from OMB approval is warranted because of the significant adjustments to the proposed rules to add in flexibility and clarify responsibilities.

35. Interagency Coordination. In the *Notice,* we directed the International Bureau, in coordination with the Public Safety and Homeland Security Bureau, to ''reach out to relevant government agencies, under its existing delegated authority,'' to ''develop and improve interagency coordination processes and best practices vis-à-vis submarine cable deployment activities and related permits and authorizations to increase transparency and information sharing among the government agencies, cable licensees, and other stakeholders.'' We note that the Bureaus have met with several of the stakeholders since the *Submarine Cable Outage Notice* was adopted and that work on this matter is ongoing. We agree with commenters' that interagency coordination is very important to protect submarine cable infrastructure. To this end, the International Bureau, in coordination with the Public Safety and Homeland Security Bureau, will continue to lead interagency coordination efforts to help increase transparency and information sharing among the government agencies, cable licensees, and other stakeholders and promote improved interagency coordination processes to mitigate threats to undersea cables and facilitate new projects to improve geographic diversity.

36. Potential Costs of Compliance. The record makes clear that there are additional costs, beyond the *Notice's* initial $8,000 cost estimate (premised upon the costs of filing the three versions of outage reports for 50 events) that should be factored into our total estimate of the costs of the regulations we enact today. Our finding that this cost figure should be adjusted, however, is not a result of the *Notice* failing to account for costs; instead the *Notice* affirmatively sought comment on items such as implementation costs, the extent to which the information required is not available in the normal course of business, and the costs of inter-licensee negotiations that are unique to consortium submarine cables.

37. As an initial matter, we note that many of the proposals that commenters claimed would inflate the costs have been revised or clarified in an effort to reduce burdens in response to the record. For example, we limited the reporting on issues related to terminal-equipment to those events lasting four hours, and thus presumably eliminated many of the ''mundane'' events from the reporting requirement, thereby reducing compliance costs. We extended the proposed reporting timeframes for the Notification and the Interim Report while clarifying that reports are due within a set period from when the licensee determines that the event is reportable, not from when the event itself becomes reportable. In this way, we alleviate the concerns of those that claim they would have to update their entire network monitoring system in order to comply. We also allowed for best estimate reporting on many of the fields that commenters indicated would be costly to identify with precision on a timely basis. We have taken the Responsible Licensee system, which was explicitly designed to mitigate burdens by having only one licensee per submarine cable report on behalf of other licensees on that cable, and allowed licensees not to use that system if they find it burdensome.

38. Thus, while we acknowledge that $8,000 figure may not represent the total cost of compliance and that upward adjustments should be made, the record on industry costs does not speak with specificity or even generalities to the requirements we have enacted given our record-based modifications. Accordingly, we instead recognize the OMB-approved 2014 UCIS collection of $305,000. We note that the costs associated with UCIS also included costs beyond those which we now require. UCIS asked licensees to provide four categories of information for each submarine cable with a cable landing in the United States: (1) A terrestrial route map; (2) a location spreadsheet; (3) a general description of restoration plans in the event of an incident; and (4) system restoration messages. As we described in the *Notice, ''*the first three categories are static insofar as the route, the geographic coordinates (*i.e.,* location), and restoration plans change infrequently. Information provided in the fourth category is dynamic, insofar as such messages should be updated after an incident and during the repair process.'' It is the fourth category of reporting system restoration messages that is directly analogous to the outage reporting requirements we enact.

39. The costs of UCIS associated with the three ''static'' categories represented $183,000 of the $305,000 total, with the system restoration messages accounting for $122,000 in reporting costs annually for the industry. This $122,000 annual cost estimate was derived from use of two conservative assumptions. First, that a single set of outage reports would involve as many as 40 hours, rather than

only the two hours that we estimate above. Second, that all 61 cables licensed in 2014 would experience an outage every year. (We used the number of licensed cables, rather than the number of cable licensees, because it is common for multiple licensees to operate on a single cable, and past experience indicates that consortia (or multiple licensees operating on a single cable) generally designate only one licensee to prepare and file the report.) We then used an estimated labor rate of $50 rather than $80 per hour, to be consistent with the 2014 OMB Supporting Statement's UCIS cost estimate. Thus, $40 \times 61 \times \$50 = \$122{,}000$. If we increased this figure by 25 percent (to account for moving from 40 to 50 hours reporting per licensee per year), we would arrive at a total of approximately $152,500 for an analogous reporting requirement. We find this to be a credible annual burden estimate based on the record and analogous UCIS processes, as confirmed by industry. Moreover, even if expected costs were to include all four elements of the UCIS collection at a total cost of $335,500, we would still, as discussed below, consider this a minimal cost in comparison to the potential benefits from our improved ability to monitor outages on cables that are so vital to both our economy and national security.

40. Public Interest Benefits. We continue to find that the relative concentration of submarine cables serving as conduits for traffic to and from the United States render the Commission's situational awareness and ability to facilitate communications alternatives not only beneficial, but vital to the public interest. These submarine cables are the primary conduit for connectivity between the contiguous United States and Alaska, Hawaii, American Samoa, Guam, the Northern Marianas, Puerto Rico, and the U.S. Virgin Islands. They also carry 95 percent of U.S. international communications, with the potential for significant impacts on national security and the economy. In some circumstances, the public welfare cost of outage of such communications could be extremely high, as lives and tremendous financial interests are at stake. It is precisely because there is a very substantial public interest in the submarine cables that the Commission has authority to license the use of submarine cables and to condition the use of those lines. Simply put, there is too much riding on these cables for the Commission to be less than fully aware about the status of these crucial lines of communication.

41. We find that the anticipated benefits of the rules that we adopt today clearly outweigh the costs to providers, even with the adjustments made above. When the Commission adopted its original part 4 rules, it observed that previous outage reports required of wireline carriers enabled it to initiate investigations and, when appropriate, take corrective action with respect to certain carriers. The Commission explained that, ''[e]nsuring that the United States has reliable communications requires us to obtain information about communications disruptions and their causes to prevent future disruptions that could otherwise occur from similar causes, as well as to facilitate the use of alternative communications facilities while the disrupted facilities are being restored.'' This situation was borne out when the Commission was hampered in its ability to respond to the CNMI outage due to delayed situational awareness. Based on the record, we conclude that it is entirely appropriate and in the public interest for this agency to systematize, coordinate, review and analyze outage reports from various sources across the industry because this will help ensure that best practices will be identified and shared and recurring problems can be eliminated or mitigated. The Commission's improved situational awareness will help ensure that licensees are consistently and appropriately acting to ensure the availability of submarine cable service, which has direct benefits to public safety and the national defense.

42. Legal Authority. We find that the Commission in fact possesses ample authority to regulate reporting as to the restoration and repair of undersea cables and effects on the related facilities licensed by the Commission. NASCA appears to misunderstand our recitation and reliance on legal authority. The Commission is instituting a uniform and tailored system of accountability designed to ensure that the licenses granted to submarine cable licensees are used to supply ''just and reasonable . . . service in the operation and use of cables so licensed[,]'' and we have explained why our role is critical here where the communications facilities at issue bear on national security and the economy and why the existing voluntary regime fails to adequately inform that role. In other words, the reporting requirements are designed to inform our understanding of whether the facilities that the Commission has licensed are working. Although our intent is to defer to licensees to institute the necessary repairs to their facilities and consider them to have adequate incentive to do so such that our direct involvement seems unwarranted at this time, it could be that enhancing our situational awareness will have the added benefit of improving licensees' broader understanding of outage events. The main goal of our requirements, however, is to help ensure that submarine cable service will be reasonably available.

43. As explained above, availability of service is essential given that submarine cables carry at least 95 percent of international communications traffic in and out of the United States and are the primary means of connectivity for numerous U.S. states and territories. As a result, submarine cable connectivity plays a vital role in the nation's security and economy. Accordingly, we conclude that that the Cable Landing License Act and Executive Order provide the Commission with ample authority to adopt the outage reporting requirements and compliance obligations as proposed in the *Notice* and as adopted today, and it is critical that we exercise it.

44. Procedural Matters. Regulatory Flexibility Act. Pursuant to the Regulatory Flexibility Act of 1980, as amended, the Commission's Final Regulatory Flexibility Analysis (FRFA) relating to this Report and Order.

45. Paperwork Reduction Act. This document contains new information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It will be submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the new or modified information collection requirements contained in this proceeding.

46. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees. In this present document, we have assessed the effects of the new rules adopted herein, which require submarine cable licensees to report when they experience outages of certain durations and causes, on small business concerns and find that the rules adopted here minimize the information collection burden on such entities.

47. Congressional Review Act. The Commission will send a copy of this Report & Order to Congress and the Government Accountability Office

pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

48. Final Regulatory Flexibility Analysis. We adopt measures to improve the utility and effectiveness of the current scheme for receiving information on submarine cable outages, with the ultimate goal of enhancing both our overall understanding of submarine cable system status and our knowledge regarding specific outages disruptions and restoration efforts. At present, the Commission receives information regarding the operational status of submarine cables on an ad hoc and voluntary basis. We adopt the rules herein with the goal of improving the efficiency and utility of the reporting process for outages and repairs of the submarine cable network, which is a vital feature of the national and international communications infrastructure.

49. The operational status of submarine cables carries commercial, economic, social, financial, and national security implications. It is vital that the United States maintain a robust and secure communications network that can continue to provide service in spite of significant equipment or system failure, and submarine cables are an integral part of that network.

50. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply. The rules adopted in the Report and Order apply only to entities licensed to construct and operate submarine cables under the Cable Landing License Act. The Report and Order requires only submarine cable licensees affected by a service outage to file outage reports with the Commission describing the outage and restoration. The entities that the Report and Order requires to file reports are a mixture of both large and small entities. The Commission has not developed a small business size standard directed specifically toward these entities. However, as described below, these entities fit into larger categories for which the SBA has developed size standards that provide these facilities or services.

51. *Facilities-based Carriers.* Facilities-based providers of international telecommunications services would fall into the larger category of interexchange carriers. Neither the Commission nor the SBA has developed a small business size standard specifically for providers of interexchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers.

52. *Wired Telecommunications Carriers.* This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services; wired (cable) audio and video programming distribution; and wired broadband Internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.'' In this category, the SBA deems a wired telecommunications carrier to be small if it has 1,500 or fewer employees. Census data for 2007 shows 3,188 firms in this category. Of these, 3,144 had fewer than 1,000 employees. On this basis, the Commission estimates that a substantial majority of the providers of wired telecommunications carriers are small.

53. In the 2009 annual traffic and revenue report, 38 facilities-based and facilities-resale carriers reported approximately $5.8 billion in revenues from international message telephone service (IMTS). Of these, three reported IMTS revenues of more than $1 billion, eight reported IMTS revenues of more than $100 million, 10 reported IMTS revenues of more than $50 million, 20 reported IMTS revenues of more than $10 million, 25 reported IMTS revenues of more than $5 million, and 30 reported IMTS revenues of more than $1 million. Based solely on their IMTS revenues the majority of these carriers would be considered non-small entities under the SBA definition.

54. The 2009 traffic and revenue report also shows that 45 facilities-based and facilities-resale carriers (including 14 who also reported IMTS revenues) reported $683 million for international private line services; of which four reported private line revenues of more than $50 million, 12 reported private line revenues of more than $10 million, 30 reported revenues of more than $1 million, 34 reported private line revenues of more than $500,000; 41 reported revenues of more than $100,000, while 2 reported revenues of less than $10,000.

55. The 2009 traffic and revenue report also shows that seven carriers (including one that reported both IMTS and private line revenues, one that reported IMTS revenues and three that reported private line revenues) reported $50 million for international miscellaneous services, of which two reported miscellaneous services revenues of more than $1 million, one reported revenues of more than $500,000, two reported revenues of more than $200,000, one reported revenues of more than $50,000, while one reported revenues of less than $20,000. Based on its miscellaneous services revenue, this one carrier with revenues of less than $20,000 would be considered a small business under the SBA definition. Based on their private line revenues, most of these entities would be considered non-small entities under the SBA definition.

56. *Providers of International Telecommunications Transmission Facilities.* According to the 2012 Circuit-Status Report, 61 U.S. international facility-based carriers filed information pursuant to Section 43.82. Some of these providers would fall within the category of Inter-exchange Carriers, some would fall within the category of Wired Telecommunications Carriers, while others may fall into the category of All Other Telecommunications.

57. *All Other Telecommunications.* This industry comprises establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing Internet services or voice over Internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry. The SBA has developed a small business size standard for All Other Telecommunications, which consists of all such firms with annual receipts of $ 32.5 million or less. For this category, Census Bureau data for 2007 show that there were 2,383 firms that operated for the entire year, and of those firms, a total of 2,346 had annual receipts less than $25 million. Consequently, we conclude that the majority of All Other Telecommunications firms can be considered small.

58. *Operators of Undersea Cable Systems.* The Report and Order adopts reporting requirements for submarine cable facilities in the event of an outage. Neither the Commission nor the SBA

has developed a size standard specifically for operators of undersea cables. Such entities would fall within the large category of Wired Telecommunications Carriers.

59. *Operators of Non-Common Carrier International Transmission Facilities.* Carriers that provide common carrier international transmission facilities over submarine cables are not required to report on outages, though the Report and Order seeks comment on whether such carriers should be required to provide outage reports. Neither the Commission nor the SBA has developed a small business size standard specifically for providers of non-common carrier terrestrial facilities. The operators of such terrestrial facilities would fall within the larger category of Wired Telecommunications Carriers.

60. *Incumbent Local Exchange Carriers.* Because some of the international terrestrial facilities that are used to provide international telecommunications services may be owned by incumbent local exchange carriers, we have included small incumbent local exchange carriers in this present RFA analysis, to the extent that such local exchange carriers may operate such international facilities. (Local exchange carriers along the U.S.-border with Mexico or Canada may have local facilities that cross the border.) Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange carriers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers.

61. Description of Projecting Reporting, Recordkeeping, and Other Compliance Requirements. The Report and Order adopts outage reporting requirements for all submarine cable licensees. An outage occurs when a licensee experiences an event in which (1) An outage related to damages or replacements of a portion of submarine cable system between the submarine line terminal equipment (SLTE) at one end of the system and the SLTE at another end of the system for more than 30 minutes; or (2) there is a loss of any fiber pair, including losses due to terminal equipment, on a cable segment for four hours or more, regardless of the number of fiber pairs that comprise the total capacity of the cable segment. After a triggering event, the reporting requirement consists of three filings, the Notification, an Interim Report for unplanned outages, and the Final Report, which provide the Commission important data to improve the Commission's situational awareness on the operational status of submarine cables. The production and transmission of these reports to the Commission may require the use of professionals such as attorneys, engineers, or accountants. However, we conclude that such reports will be based on information already within the reporting entity's possession, and therefore these should be considered routine reports.

62. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): ''(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage or the rule, or any part thereof, for small entities.''

63. Ordering Clauses. Accordingly, IT IS ORDERED pursuant to sections 1, 4(i), 4(j), 4(o), of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), (j), and (o), and pursuant to the Cable Landing License Act of 1921, 47 U.S.C. 34–39 and 3 U.S.C. 301 that this Report and Order in GN Docket No. 15–206 IS ADOPTED.

64. IT IS FURTHER ORDERED that parts 1 and 4 of the Commission's rules ARE AMENDED.

65. IT IS FURTHER ORDERED that this Report and Order SHALL BE effective six months after approval of the Office of Management and Budget under the Paperwork Reduction Act.

66. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Parts 1 and 4

Telecommunications, Communications equipment, Reporting and recordkeeping requirements.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison Officer, Office of the Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 1 and 4 as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. 151, 154(i), 155, 157, 225, 303(r), 309, 1403, 1404, 1451, and 1452.

■ 2. Section 1.767 is amended by adding paragraph (g)(15), revising paragraph (n), and adding paragraph (o) to read as follows:

§ 1.767 Cable landing licenses.

* * * * *

(g) * * *

(15) Licensees shall file submarine cable outage reports as required in 47 CFR part 4.

* * * * *

(n)(1) With the exception of submarine cable outage reports, and subject to the availability of electronic forms, all applications and notifications described in this section must be filed electronically through the International Bureau Filing System (IBFS). A list of forms that are available for electronic filing can be found on the IBFS homepage. For information on electronic filing requirements, see part 1, subpart Y, and the IBFS homepage at *http://www.fcc.gov/ibfs.* See also sections 63.20 and 63.53 of this chapter.

(2) Submarine cable outage reports must be filed as set forth in part 4 of this Title.

(o) *Outage Reporting.* Licensees of a cable landing license granted prior to March 15, 2002 shall file submarine cable outage reports as required in part 4 of this Title.

* * * * *

PART 4—DISRUPTIONS TO COMMUNICATIONS

■ 3. The authority citation for part 4 is revised to read as follows:

Authority: 47 U.S.C. 34–39, 151, 154, 155, 157, 201, 251, 307, 316, 615a–1, 1302(a), and 1302(b); 5 U.S.C. 301, and Executive Order no. 10530.

■ 4. Section 4.1 is revised to read as follows:

§ 4.1 Scope, basis, and purpose.

(a) In this part, the Federal Communications Commission is setting

forth requirements pertinent to the reporting of disruptions to communications and to the reliability and security of communications infrastructures.

(b) The definitions, criteria, and reporting requirements set forth in Sections 4.2 through 4.13 of this part are applicable to the communications providers defined in Section 4.3 of this part.

(c) The definitions, criteria, and reporting requirements set forth in Section 4.15 of this part are applicable to submarine cable providers who have been licensed pursuant to 47 U.S.C. 34–39.

■ 5. Section 4.15 is added to read as follows:

§ 4.15 Submarine cable outage reporting.

(a) *Definitions.* (1) For purposes of this section, ''outage'' is defined as a failure or significant degradation in the performance of a licensee's cable service regardless of whether the traffic can be re-routed to an alternate path.

(2) An ''outage'' requires reporting under this section when there is:

(i) An outage, including those caused by planned maintenance, of a portion of submarine cable system between submarine line terminal equipment (SLTE) at one end of the system and SLTE at another end of the system for more than 30 minutes; or

(ii) The loss of any fiber pair, including losses due to terminal equipment, on a cable segment for four hours or more, regardless of the number of fiber pairs that comprise the total capacity of the cable segment.

(b) *Outage reporting.* (1) For each outage that requires reporting under this section, the licensee (or Responsible Licensee as designated by a Consortium) shall provide the Commission with a Notification, Interim Report (subject to the limitations on planned outages in Section 4.15(b)(2)(iii)), and a Final Outage Report.

(i) For a submarine cable that is jointly owned and operated by multiple licensees, the licensees of that cable may designate a Responsible Licensee that files outage reports under this rule on behalf of all licensees on the affected cable.

(ii) Licensees opting to designate a Responsible Licensee must jointly notify the Chief of the Public Safety and Homeland Security Bureau's Cybersecurity and Communications Reliability Division of this decision in writing. Such notification shall include the name of the submarine cable at issue; and contact information for all licensees on the submarine cable at issue, including the Responsible Licensee.

(2) Notification, Interim, and Final Outage Reports shall be submitted by a person authorized by the licensee to submit such reports to the Commission.

(i) The person submitting the Final Outage Report to the Commission shall also be authorized by the licensee to legally bind the provider to the truth, completeness, and accuracy of the information contained in the report. Each Final report shall be attested by the person submitting the report that he/she has read the report prior to submitting it and on oath deposes and states that the information contained therein is true, correct, and accurate to the best of his/her knowledge and belief and that the licensee on oath deposes and states that this information is true, complete, and accurate.

(ii) The Notification is due within 480 minutes (8 hours) of the time of determining that an event is reportable for the first three years from the effective date of these rules. After three years from the effective date of the rules, Notifications shall be due within 240 minutes (4 hours). The Notification shall be submitted in good faith. Licensees shall provide: The name of the reporting entity; the name of the cable and a list of all licensees for that cable; the date and time of onset of the outage, if known (for planned events, this is the estimated start time/date of the repair); a brief description of the event, including root cause if known; nearest cable landing station; best estimate of approximate location of the event, if known (expressed in either nautical miles and the direction from the nearest cable landing station or in latitude and longitude coordinates); best estimate of the duration of the event, if known; whether the event is planned or unplanned; and a contact name, contact email address, and contact telephone number by which the Commission's technical staff may contact the reporting entity.

(iii) The Interim Report is due within 24 hours of receiving the Plan of Work. The Interim Report shall be submitted in good faith. Licensees shall provide: The name of the reporting entity; the name of the cable; a brief description of the event, including root cause, if known; the date and time of onset of the outage; nearest cable landing station; approximate location of the event (expressed in either nautical miles and the direction from the nearest cable landing station or in latitude and longitude); best estimate of when the cable is scheduled to be repaired, including approximate arrival time and date of the repair ship, if applicable; a contact name, contact email address, and contact telephone number by which the Commission's technical staff may contact the reporting entity. The Interim report is not required where the licensee has reported in the Notification that the outage at issue is a planned outage.

(iv) The Final Outage Report is due seven (7) days after the repair is completed. The Final Outage Report shall be submitted in food faith. Licensees shall provide: The name of the reporting entity; the name of the cable; whether the outage was planned or unplanned; the date and time of onset of the outage (for planned events, this is the start date and time of the repair); a brief description of the event, including the root cause if known; nearest cable landing station; approximate location of the event (expressed either expressed in either nautical miles and the direction from the nearest cable landing station or in latitude and longitude coordinates); duration of the event, as defined in paragraph (a)(2) of this section; the restoration method; and a contact name, contact email address, and contact telephone number by which the Commission's technical staff may contact the reporting entity. If any required information is unknown at the time of submission of the Final Report but later becomes known, licensees should amend their report to reflect this knowledge. The Final Report must also contain an attestation as described in paragraph (b)(2)(i) of this section.

(v) The Notification, Interim Report, and Final Outage Reports are to be submitted electronically to the Commission. ''Submitted electronically'' refers to submission of the information using Commission-approved Web-based outage report templates. If there are technical impediments to using the Web-based system during the Notification stage, then a written Notification to the Commission by email to the Chief, Public Safety and Homeland Security Bureau is permitted; such Notification shall contain the information required. Electronic filing shall be effectuated in accordance with procedures that are specified by the Commission by public notice.

(c) *Confidentiality.* Reports filed under this part will be presumed to be confidential. Public access to reports filed under this part may be sought only pursuant to the procedures set forth in 47 CFR 0.461. Notice of any requests for inspection of outage reports will be provided pursuant to 47 CFR 0.461(d)(3).

[FR Doc. 2016–18610 Filed 8–5–16; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 40

RIN 2105–AE54

Technical Amendment

AGENCY: Office of the Secretary of Transportation (OST), U.S. Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This final rule amends the U.S. Department of Transportation's (DOT) regulation to conform to recent legislation that changed the definition of the term ''service agent'' in the DOT drug and alcohol testing regulations. The final rule also revises the definition of ''service agent'' to include all entities that provide services for DOT mandated drug and alcohol programs.

DATES: This final rule is effective on August 8, 2016.

FOR FURTHER INFORMATION CONTACT: Patrice M. Kelly, Acting Director, Office of Drug and Alcohol Policy and Compliance, 1200 New Jersey Avenue SE.; Washington, DC 20590; telephone: (202) 366–3784; email: *ODAPCWebMail@dot.gov*.

SUPPLEMENTARY INFORMATION:

Good Cause Exemption From Delayed Effect Date and Notice and Comment

Section 553(b)(3)(B) of title 5, U.S. Code, authorizes agencies to dispense with notice and comment procedures for rules when the agency for ''good cause'' finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' In this instance, the Moving Ahead for Progress in the 21st Century Act (MAP–21) required the Federal Motor Carrier Safety Administration (FMCSA) to create a database for records pertaining to drug and alcohol program violations by commercial motor vehicle operators. As part of that legislative mandate, MAP–21 included a definition of the term ''service agent'' that is inconsistent with the current definition of ''service agent'' in DOT's drug and alcohol testing regulation at 49 CFR 40.3. This final rule amends the DOT regulation so that it is consistent with MAP–21 and clarifies the scope of the definition of service agent, as the term applies throughout the DOT Agencies that utilize 49 CFR part 40, including FMCSA. Since the definition of ''service agent'' found in 49 CFR part 40 is now inconsistent with MAP–21, DOT finds that notice and public comment to this final rule, as well as any delay in its effective date, is unnecessary as the change is already effective under the statute.

I. Authority for This Rulemaking

This rulemaking is promulgated pursuant to the Omnibus Transportation Employee Testing Act (OTETA) of 1991 (Pub. L. 102–143, 105 Stat. 952, (Oct. 28, 1991)) and MAP–21 (Pub. L. 112–141, 126 Stat. 802, (July 6, 2012).

II. Background

Historically, service agents have played an integral role in many DOT-regulated employers' drug and alcohol testing programs. Many employers use their service agents as advisors and rely on their services to maintain compliance with DOT regulations. Service agents who are focused on compliance typically increase efficiencies and contribute to the safety of the traveling public.

MAP–21 is a transportation reauthorization bill signed into law on July 6, 2012. In response to section 32402 of the bill, codified at 49 U.S.C. 30106a, FMCSA issued a proposed rule, 79 FR 9703 (Feb. 20, 2014), to create the Commercial Driver's License Drug and Alcohol Clearinghouse (Clearinghouse) under 49 CFR part 382. The Clearinghouse would be a database containing drug and alcohol test program violations by the holders of commercial driver's licenses (CDLs) subject to 49 CFR part 382. The proposal contained, among other things, a provision that would permit motor carrier employers to designate service agents to perform various tasks on their behalf within the Clearinghouse (*e.g.,* reporting employees' drug and alcohol violations to the Clearinghouse). MAP–21 defines a service agent as ''a person or entity, other than an employee of the employer, who provides services to employers or employees under the [DOT-wide drug and alcohol] testing program'' (49 U.S.C. 31306a(m)(8)).

For more than sixteen years, the term ''service agent'' has been defined as, ''any person or entity, other than an employee of the employer, who provides services specified under this part to employers and/or employees in connection with DOT drug and alcohol testing requirements. This includes, but is not limited to, collectors, BATs [Breath Alcohol Technicians] and STTs [Saliva Testing Technicians], laboratories, MROs [Medical Review Officers], substance abuse professionals, and C/TPAs [Consortia/Third Party Administrators]. To act as service agents, persons and organizations must meet the qualifications set forth in applicable sections of this part. Service agents are not employers for purposes of this part.'' (49 CFR 40.3)

In addition, over the years, the service agent industry has grown and it provides many services to DOT-regulated employers. As technology has grown, service agents have branched into providing electronic services. As the sophistication of the drug and alcohol testing industry has grown, we have seen service agents offer auditing services to DOT-regulated employers. Given the fact that additional services have been offered to employers related to DOT's drug and alcohol program, the types of providers that fall into the definition of service agent have evolved.

In this final rule, we are deleting from the current definition of ''service agent'' the phrases ''specified under this part'' and ''set forth in applicable sections of this part'' (both of which refer to 49 CFR part 40). We have also inserted the language ''if applicable'' to the definition because we believe that it is important to continue to note that if a DOT regulation requires specific qualifications, then the service agent must comply. In so doing, we are conforming to MAP–21 and clarifying that the expanding range of drug and alcohol program services has been included in this definition.

III. Regulatory Analyses and Notices

Changes to Federal regulations must undergo several analyses. First, Executive Orders 12866 and 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), as codified in 5 U.S.C. 601 *et seq.,* requires agencies to analyze the economic impact of regulatory changes on small entities. The Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*) requires that DOT consider the impact of paperwork and other information collection burdens imposed on the public and, under the provisions of PRA section 3507(d), obtain approval from OMB for each collection of information it conducts, sponsors, or requires through regulations. Section (a)(5) of division H of the Fiscal Year 2005 Omnibus Appropriations Act, Public Law 108–447, 118 Stat. 3268 (Dec. 8, 2004) and section 208 of the E-Government Act of 2002, Public Law 107–347, 116 Stat. 2889 (Dec. 17, 2002) requires DOT to conduct a Privacy Impact Assessment (PIA) of a regulation that will affect the privacy of individuals. Finally, the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) requires

DOT to analyze this action to determine whether it will have an effect on the quality of the environment. This portion of the preamble summarizes the DOT's analyses of these impacts with respect to this final rule.

Executive Order 12866 and 13563 and DOT's Regulatory Policies and Procedures

This final rule is not a significant regulatory action under Executive Order 12866 and 13563, as well as the Department's Regulatory Policies and Procedures. This rule deletes a term used in the current definition of ''service agent'' in 49 CFR part 40. Its provision conforms to MAP–21 and includes entities that provide additional services with respect to DOT mandated drug and alcohol testing. This rule does not propose any major policy changes or impose significant new costs or burdens.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354, ''RFA''), 5 U.S.C. 601 *et seq.,* establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.'' The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

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

Service agents provide useful services that employers may use in order to maintain compliance with DOT regulations. This rule creates no additional burdens for service agents or the DOT-regulated employers that utilize their services. DOT has long interpreted its regulation in part 40 to encompass all services ''in connection with DOT drug and alcohol testing requirements'' performed by service agents. See 49 CFR 40.3. Thus, in accordance with 5 U.S.C. 605(b), I certify that this rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The PRA requires that the DOT consider the impact of paperwork and other information collection burdens imposed on the public. The rule does not create an impact of paperwork and other information collection burdens.

Privacy Act

The revised definition of ''service agent'' does not have any impact with respect to the Privacy Act.

National Environmental Policy Act

The agency has analyzed the environmental impacts of this proposed action pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) and has determined that it is categorically excluded pursuant to DOT Order 5610.1C, Procedures for Considering Environmental Impacts (44 FR 56420, Oct. 1, 1979). 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. Paragraph 3.c.5 of DOT Order 5610.1C incorporates by reference the categorical exclusions for all DOT Operating Administrations. This action is covered by the categorical exclusion listed in the Federal Highway Administration's implementing procedures, ''[p]romulgation of rules, regulations, and directives.'' 23 CFR 771.117(c)(20). The purpose of this rulemaking is to revise the regulation to conform to recent legislation that changed the definition of the term ''service agent'' in the DOT drug and alcohol testing regulations. The agency does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

V. How To Obtain Additional Information

A. Rulemaking Documents

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

1. Search regulations.gov (*http://www.regulations.gov*) for the docket number listed at the beginning of this document; or

2. Search the Office of the Federal Register's Web page (*https://www.federalregister.gov*) for the RIN listed at the beginning of this document.

List of Subjects in 49 CFR Part 40

Administrative practice and procedure, Drug testing, Laboratories, Reporting and recordkeeping requirements, Safety, Transportation.

The Amendment

In consideration of the foregoing, the Department of Transportation amends part 40 of Title 49, Code of Federal Regulations, as follows:

PART 40—PROCEDURES FOR TRANSPORTATION WORKPLACE DRUG AND ALCOHOL TESTING PROGRAMS

■ 1. The authority citation for part 40 continues to read as follows:

Authority: 49 U.S.C. 101, 102, 301, 322, 5331, 20140, 31306, and 45101 *et seq.*

■ 2. In § 40.3, revise the definition of ''Service agent'' to read as follows:

§ 40.3 What do the terms of this part mean?

* * * * *

Service agent. Any person or entity, other than an employee of the employer, who provides services to employers and/or employees in connection with DOT drug and alcohol testing requirements. This includes, but is not limited to, collectors, BATs and STTs, laboratories, MROs, substance abuse professionals, and C/TPAs. To act as service agents, persons and organizations must meet DOT qualifications, if applicable. Service agents are not employers for purposes of this part.

* * * * *

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

Anthony R. Foxx,

Secretary of Transportation.

[FR Doc. 2016–18328 Filed 8–5–16; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 120815345–3525–02]

RIN 0648–XE774

Snapper-Grouper Fishery of the South Atlantic; 2016 Recreational Accountability Measure and Closure for the South Atlantic Other Jacks Complex

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements an accountability measure (AM) for the recreational sector for the other jacks complex (lesser amberjack, almaco jack, and banded rudderfish) in the South Atlantic for the 2016 fishing year through this temporary rule. NMFS projects that recreational landings of the other jacks complex will reach their combined recreational annual catch limit (ACL) by August 9, 2016. Therefore, NMFS closes the recreational sector for this complex on August 9, 2016, through the remainder of the fishing year in the exclusive economic zone (EEZ) of the South Atlantic. This closure is necessary to protect the lesser amberjack, almaco jack, and banded rudderfish resources.

DATES: This rule is effective 12:01 a.m., local time, August 9, 2016, until 12:01 a.m., local time, January 1, 2017.

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

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic includes lesser amberjack, almaco jack, and banded rudderfish, and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The recreational ACL for the other jacks complex is 267,799 lb (121,472 kg), round weight. Under 50 CFR 622.193(l)(2)(i), NMFS is required to close the recreational sector for the other jacks complex when the recreational ACL has been reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS has determined that the recreational sector for this complex is projected to reach its ACL by August 9, 2016. Therefore, this temporary rule implements an AM to close the recreational sector for the other jacks complex in the South Atlantic, effective 12:01 a.m., local time, August 9, 2016, until January 1, 2017, the start of the next fishing year.

During the recreational closure, the bag and possession limits for the fish in the other jacks complex in or from the South Atlantic EEZ are zero. Additionally, NMFS closed the commercial sector for the other jacks complex effective on August 9, 2016, upon reaching the commercial ACL. Therefore, on August 9, 2016, no commercial or recreational harvest of fish in the other jacks complex from the South Atlantic EEZ is permitted for the remainder of 2016. The commercial sector for the other jacks complex re-opens on January 1, 2017.

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of the fish in the other jacks complex, a component of the South Atlantic snapper-grouper fishery, and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.193(l)(2)(i) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and public comment.

This action responds to the best scientific information available. The Assistant Administrator for NOAA Fisheries (AA) finds that the need to immediately implement this action to close the recreational sector for the other jacks complex constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule implementing the AM itself has been subject to notice and comment, and all that remains is to notify the public of the closure. Such procedures are contrary to the public interest because of the need to immediately implement this action to protect the other jacks complex. Prior notice and opportunity for public comment would require time and would potentially allow the recreational sector to exceed its ACL.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

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

Dated: August 2, 2016.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–18677 Filed 8–2–16; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 120109034–2171–01]

RIN 0648–XE778

Fisheries of the Northeastern United States; Small-Mesh Multispecies Fishery; Adjustment to the Commercial Northern Red Hake Inseason Possession Limit

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

ACTION: Temporary rule; inseason adjustment.

SUMMARY: We announce the reduction of the commercial possession limit for northern red hake for the remainder of the 2016 fishing year. This action is required to prevent the northern red hake total allowable landing limit from being exceeded. This announcement informs the public that the northern red hake possession limit is reduced.

DATES: Effective August 8, 2016, through April 30, 2017.

FOR FURTHER INFORMATION CONTACT: Reid Lichwell, Fishery Management Specialist, 978–675–9112.

SUPPLEMENTARY INFORMATION: The small-mesh multispecies fishery is managed primarily through a series of exemptions from the Northeast Multispecies Fisheries Management Plan. Regulations governing the red hake fishery are found at 50 CFR part 648. The regulations describing the process to adjust inseason commercial possession limits of northern red hake are described in § 648.86(d)(4) and (5). These regulations require the Regional Administrator to reduce the northern red hake possession limit from 3,000 lb (1,361 kg) to 1,500

lb (680 kg) when landings have been projected to reach or exceed 45 percent of the total allowable landings (TAL). The northern red hake possession limit is required to be further reduced to 400 lb (181 kg) if landings are projected to reach or exceed 62.5 percent of the TAL, unless such a reduction would be expected to prevent the TAL from being reached. The setting of these inseason adjustment thresholds were established in the final rule implementing the small-mesh multispecies specifications for 2015–2017, published in the **Federal Register** on May 28, 2015 (80 FR 30379).

These measures were imposed because the annual catch limits (ACL) for northern red hake were exceeded for the 2012 and 2013 fishing years, and northern red hake was experiencing overfishing. To reduce the risk of continued overfishing on the stock and to better constrain catch to the ACL, we implemented this possession limit reduction trigger.

Based on commercial landings data reported through July 23, 2016, the northern red hake fishery is projected to reach 45 percent of the TAL on July 31, 2016. Based on this projection, reducing the commercial northern red hake possession limit to 1,500 lb (680 kg) is required to prevent the TAL from being exceeded. Upon the effective date of this action, no person may possess on board or land more than 1,500 lb (680 kg) of northern red hake, per trip for the remainder of the fishing year.

Classification

This action is taken under 50 CFR part 648 and is exempt from review under Executive Order 12866.

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

Dated: August 2, 2016.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–18715 Filed 8–5–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 150916863–6211–02]

RIN 0648–XE789

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pollock in the Bering Sea and Aleutian Islands

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

ACTION: Temporary rule.

SUMMARY: NMFS is reallocating the projected unused amounts of the Aleut Corporation pollock directed fishing allowance from the Aleutian Islands subarea to the Bering Sea subarea. This action is necessary to provide opportunity for harvest of the 2016 total allowable catch of pollock, consistent with the goals and objectives of the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), August 8, 2016, through 2400 hrs, A.l.t., December 31, 2016.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council (Council) under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In the Aleutian Islands subarea, the portion of the 2016 pollock total allowable catch (TAC) allocated to the Aleut Corporation directed fishing allowance (DFA) is 9,700 metric tons (mt) as established by the final 2016 and 2017 harvest specifications for groundfish in the BSAI (81 FR 14773, March 18, 2016), and as adjusted by reallocations (81 FR 16097, March 25, 2016).

As of August 1, 2016, the Administrator, Alaska Region, NMFS, (Regional Administrator) has determined that 8,000 mt of the Aleut Corporation pollock DFA in the Aleutian Islands subarea will not be harvested. Therefore, in accordance with § 679.20(a)(5)(iii)(B)(*4*), NMFS reallocates 8,000 mt of A season pollock DFA from the Aleutian Islands subarea to the 2016 Bering Sea subarea DFAs. The 8,000 mt of the Aleut Corporation pollock DFA is added to the 2016 Bering Sea non-CDQ DFAs. As a result, the 2016 harvest specifications for pollock in the Aleutian Islands subarea included in the final 2016 and 2017 harvest specifications for groundfish in the BSAI (81 FR 14773, March 18, 2016), and as adjusted by reallocations (81 FR 16097, March 25, 2016) are revised as follows: 1,700 mt to the annual Aleut Corporation pollock DFA and 1,700 mt to the A season Aleut Corporation pollock DFA. Furthermore, pursuant to § 679.20(a)(5), Table 5 of the final 2016 and 2017 harvest specifications for groundfish in the Bering Sea and Aleutian Islands (81 FR 14773, March 18, 2016, and 81 FR 16097, March 25, 2016), is revised to make 2016 pollock allocations consistent with this reallocation. This reallocation results in adjustments to the 2016 pollock allocations established at § 679.20(a)(5).

TABLE 5—FINAL 2016 ALLOCATIONS OF POLLOCK TACS TO THE DIRECTED POLLOCK FISHERIES AND TO THE CDQ DIRECTED FISHING ALLOWANCES (DFA) [1]

[Amounts are in metric tons]

Area and sector	2016 Allocations	2016 A season [1]		2016 B season [1]
		A season DFA	SCA harvest limit [2]	B season DFA
Bering Sea subarea TAC [1]	1,354,900	n/a	n/a	n/a
CDQ DFA	135,900	54,360	38,052	81,540
ICA [1]	48,240	n/a	n/a	n/a
AFA Inshore	585,380	234,152	163,906	351,228
AFA Catcher/Processors [3]	468,304	187,322	131,125	280,982
Catch by C/Ps	428,498	171,399	n/a	257,099
Catch by CVs [3]	39,806	15,922	n/a	23,884
Unlisted C/P Limit [4]	2,342	937	n/a	1,405
AFA Motherships	117,076	46,830	32,781	70,246

TABLE 5—FINAL 2016 ALLOCATIONS OF POLLOCK TACS TO THE DIRECTED POLLOCK FISHERIES AND TO THE CDQ DIRECTED FISHING ALLOWANCES (DFA) [1]—Continued

[Amounts are in metric tons]

Area and sector	2016 Allocations	2016 A season [1]		2016 B season [1]
		A season DFA	SCA harvest limit [2]	B season DFA
Excessive Harvesting Limit [5]	205,216	n/a	n/a	n/a
Excessive Processing Limit [6]	351,798	n/a	n/a	n/a
Total Bering Sea DFA	1,170,760	468,304	327,813	702,456
Aleutian Islands subarea ABC	32,227	n/a	n/a	n/a
Aleutian Islands subarea TAC [1]	4,100	n/a	n/a	n/a
CDQ DFA	0	0	n/a	0
ICA	2,400	1,200	n/a	1,200
Aleut Corporation	1,700	1,700	n/a	0
Area harvest limit [7]				
541	9,668	n/a	n/a	n/a
542	4,834	n/a	n/a	n/a
543	1,611	n/a	n/a	n/a
Bogoslof District ICA [8]	500	n/a	n/a	n/a

[1] Pursuant to § 679.20(a)(5)(i)(A), the BS subarea pollock, after subtracting the CDQ DFA (10 percent) and the ICA (4.0 percent), is allocated as a DFA as follows: inshore sector—50 percent, catcher/processor sector (C/P)—40 percent, and mothership sector—10 percent. In the BS subarea, 40 percent of the DFA is allocated to the A season (January 20–June 10) and 60 percent of the DFA is allocated to the B season (June 10–November 1). Pursuant to § 679.20(a)(5)(iii)(B)(*2*)(*i*) and (*ii*), the annual AI pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second the ICA (2,400 mt), is allocated to the Aleut Corporation for a pollock directed fishery. In the AI subarea, the A season is allocated 40 percent of the ABC and the B season is allocated the remainder of the pollock directed fishery.

[2] In the BS subarea, no more than 28 percent of each sector's annual DFA may be taken from the SCA before April 1.

[3] Pursuant to § 679.20(a)(5)(i)(A)(*4*), not less than 8.5 percent of the DFA allocated to listed catcher/processors shall be available for harvest only by eligible catcher vessels delivering to listed catcher/processors.

[4] Pursuant to § 679.20(a)(5)(i)(A)(*4*)(*iii*), the AFA unlisted catcher/processors are limited to harvesting not more than 0.5 percent of the catcher/processors sector's allocation of pollock.

[5] Pursuant to § 679.20(a)(5)(i)(A)(*6*), NMFS establishes an excessive harvesting share limit equal to 17.5 percent of the sum of the non-CDQ pollock DFAs.

[6] Pursuant to § 679.20(a)(5)(i)(A)(*7*), NMFS establishes an excessive processing share limit equal to 30.0 percent of the sum of the non-CDQ pollock DFAs.

[7] Pursuant to § 679.20(a)(5)(iii)(B)(*6*), NMFS establishes harvest limits for pollock in the A season in Area 541 no more than 30 percent, in Area 542 no more than 15 percent, and in Area 543 no more than 5 percent of the Aleutian Islands pollock ABC.

[8] The Bogoslof District is closed by the final harvest specifications to directed fishing for pollock. The amounts specified are for ICA only and are not apportioned by season or sector.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the reallocation of Aleutian Island subarea pollock. Since the pollock fishery is currently underway, it is important to immediately inform the industry as to the final Bering Sea and Aleutian Islands pollock allocations. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery; allow the industry to plan for the fishing season and avoid potential disruption to the fishing fleet as well as processors; and provide opportunity to harvest increased seasonal pollock allocations while value is optimum. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as August 1, 2016.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: August 3, 2016.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–18763 Filed 8–5–16; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 81, No. 152
Monday, August 8, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2016–7043; Airspace Docket No. 16–ANM–6]

Proposed Amendment of Class E Airspace, Blue Mesa, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E en route domestic airspace extending upward from 1,200 feet above the surface near the Blue Mesa VHF Omni-Directional Radio Range/Distance Measuring Equipment (VOR/DME), Blue Mesa, CO. The FAA has transitioned to a more accurate method of measuring, publishing, and charting airspace areas. This transition has revealed some small areas of uncharted uncontrolled airspace. The FAA found modification of these areas of uncontrolled airspace necessary to ensure the safety of Instrument Flight Rules (IFR) operations and the efficient use of navigable airspace, including point-to-point off-airway clearances, and aircraft vectoring services.

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

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: 1–800–647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2016–7043; Airspace Docket No. 16–ANM–6, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

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

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

FOR FURTHER INFORMATION CONTACT: Tom Clark, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4511.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Persons wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2016–7043/Airspace Docket No. 15–ANM–6.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

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

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

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

Availability and Summary of Documents Proposed for Incorporation by Reference

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

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) Part 71 by modifying Class E En route domestic airspace extending upward from 1,200 feet above the surface in the vicinity of the Blue Mesa VOR/DME, Blue Mesa, CO. One small airspace area northwest, near Montrose, CO, and one small airspace area southeast, near Trinidad, CO, both excluded from the current boundary, would be added for the safety and management of IFR operations, specifically point-to-point, en route operations outside of the established airway structure, and Air Traffic Control vectoring services.

Class E airspace designations are published in paragraph 6006 of FAA Order 7400.9Z, dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

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

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6006 En Route Domestic Airspace Areas.

* * * * *

ANM CO E6 Blue Mesa, CO [Amended]

Blue Mesa VOR/DME, CO
(Lat. 38°27′08″ N., long. 107°02′23″ W.)

That airspace extending upward from 1,200 feet above the surface within an area bounded by Lat. 35°39′30″ N., long. 107°25′27″ W.; to Lat. 36°14′38″ N., long. 107°40′25″ W.; to Lat. 37°16′00″ N., long. 108°22′00″ W.; to Lat. 37°58′51″ N., long. 108°22′29″ W.; to Lat. 39°01′00″ N., long. 107°47′00″ W.; to Lat. 39°07′40″ N., long. 107°13′47″ W.; to Lat. 39°11′48″ N., long. 106°29′16″ W.; to Lat. 39°40′23″ N., long. 103°29′02″ W.; to Lat. 36°59′57″ N., long. 104°18′04″ W.; to Lat. 36°17′00″ N., long. 104°14′00″ W.; to Lat. 36°12′53″ N., long. 104°56′21″ W.; to Lat. 36°13′34″ N., long. 105°54′42″ W.; thence to the point of beginning.

Issued in Seattle, Washington, on July 29, 2016.

Tracey Johnson,

Manager, Operations Support Group, Western Service Center.

[FR Doc. 2016–18676 Filed 8–5–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 175, 176, 177, and 178

[Docket No. FDA–2016–F–1253]

Breast Cancer Fund, Center for Environmental Health, Center for Food Safety, Center for Science in the Public Interest, Clean Water Action, Consumer Federation of America, Earthjustice, Environmental Defense Fund, Improving Kids' Environment, Learning Disabilities Association of America, and Natural Resources Defense Council; Filing of Food Additive Petition; Reopening of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of petition; reopening of comment period.

SUMMARY: The Food and Drug Administration (FDA or we) is reopening the comment period for the notice of filing that appeared in the **Federal Register** of May 20, 2016 (81 FR 31877). In the notice, we requested comments on a filed food additive petition (FAP 6B4815), submitted by the Breast Cancer Fund, Center for Environmental Health, Center for Food Safety, Center for Science In The Public Interest, Clean Water Action, Consumer Federation of America, Earthjustice, Environmental Defense Fund, Improving Kids' Environment, Learning Disabilities Association of America, and Natural Resources Defense Council, proposing that we amend and/or revoke specified regulations to no longer provide for the food contact use of specified ortho-phthalates. We are taking this action in response to a request for an extension to allow interested persons additional time to submit comments.

DATES: FDA is reopening the comment period on the notice of filing of a food additive petition published on May 20, 2016 (81 FR 31877). Submit either electronic or written comments by September 19, 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–F–1253 for ''Breast Cancer Fund, Center for Environmental Health, Center for Food Safety, Center for Science in the Public Interest, Clean Water Action, Consumer Federation of America, Earthjustice, Environmental Defense Fund, Improving Kids' Environment, Learning Disabilities Association of America, and Natural Resources Defense Council; Filing of Food Additive Petition.'' 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: Kelly Randolph, Center for Food Safety and Applied Nutrition (HFS–265), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740–3835, 240–402–1188.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 20, 2016 (81 FR 31877), FDA published a notice of filing of a food additive petition (FAP 6B4815) submitted by the Breast Cancer Fund, Center for Environmental Health, Center for Food Safety, Center for Science in the Public Interest, Clean Water Action, Consumer Federation of America, Earthjustice, Environmental Defense Fund, Improving Kids' Environment, Learning Disabilities Association of America, and Natural Resources Defense Council, c/o Mr. Thomas Neltner, 1875 Connecticut Ave. NW., Suite 600, Washington, DC 20009. The notice invited comments on the petition. The petition proposes that we amend and/or revoke specified regulations to no longer provide for the food contact use of specified ortho-phthalates. Specifically, the petitioners request that we consider that ortho-phthalates are a class of chemically and pharmacologically related substances, and state that there is no longer a reasonable certainty of no harm for the food contact uses of the specified ortho-phthalates. If we determine that new data are available that justify amending the specified food additive regulations in 21 CFR parts 175, 176, 177, and 178 so that they will no longer provide for the use of the ortho-phthalates, we will publish such an amendment of these regulations in the **Federal Register**, as set forth in § 171.130 and § 171.100 (21 CFR 171.100).

We have received a request for a 60-day extension of the comment period for the petition. The request conveyed concern that the 60-day comment period does not allow sufficient time to collect and provide data and information and develop a meaningful and thoughtful response to the assertions set forth in the petition.

FDA has considered the request; however, because the request was submitted too late to allow us to extend the comment period, we are, instead, reopening the comment period until September 19, 2016. We believe that re-opening the comment period until that date allows adequate time for interested persons to submit comments without significantly delaying our review.

Dated: August 2, 2016.

Dennis M. Keefe,

Director, Office of Food Additive Safety, Center for Food Safety and Applied Nutrition.

[FR Doc. 2016–18720 Filed 8–5–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 1105

[Docket No. FDA–2016–N–1555]

Refuse To Accept Procedures for Premarket Tobacco Product Submissions

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a proposed rule describing when FDA would refuse to accept a tobacco product submission (or application) because the application has not met a minimum threshold for acceptability for FDA review. Under the proposed rule, FDA would refuse to accept a tobacco product submission, for example, that is not in English, does not pertain to a tobacco product, or does not identify the

type of submission. By refusing to accept submissions that have the deficiencies identified in the proposed rule, FDA would be able to focus our review resources on submissions that meet a threshold of acceptability and encourage quality submissions. If we receive any significant adverse comments that warrant terminating the direct final rule, we will consider such comments on the proposed rule in developing the final rule.

DATES: Submit either electronic or written comments on the proposed rule by October 24, 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–1555 for ''Refuse to Accept Procedures for Premarket Tobacco Product Submissions.'' 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: Annette Marthaler or Paul Hart, Office of Regulations, Center for Tobacco Products (CTP), Food and Drug Administration, Document Control Center, Bldg. 71, Rm. G335, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 877–287–1373, *CTPRegulations@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Purpose of the Proposed Rule

FDA is proposing this refuse to accept rule as a companion to the direct final rule issued elsewhere in this issue of the **Federal Register**. The proposed rule would identify deficiencies that would result in FDA's refusal to accept certain tobacco product submissions under sections 905, 910, and 911 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act), as amended by the Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) (21 U.S.C. 387e, 387j, and 387k).[1] Because these submissions would be refused before they enter FDA's review queue, more resources would be available for submissions that are ready for further review. This proposed rule would establish a refuse to accept process for premarket tobacco product submissions, including premarket tobacco product applications (PMTAs), modified risk tobacco product applications (MRTPAs), substantial equivalence (SE) applications (also called SE reports), and exemption requests (including subsequent abbreviated reports).

B. Summary of the Major Provisions of the Regulatory Action

The proposed rule explains when FDA would refuse to accept a premarket submission, including PMTAs, MRTPAs, SE applications, and exemption requests (including subsequent abbreviated reports). The proposal is based on FDA's experience in reviewing these submissions. Under the proposed rule, FDA would refuse to accept a premarket submission that: (1) Does not pertain to a tobacco product; (2) is not in English (or does not include a complete translation); (3) is submitted in an electronic format that FDA cannot process, read, review, or archive; (4) does not include the applicant's contact information; (5) is from a foreign applicant and does not include the name and contact information of an authorized U.S. agent (authorized to act on behalf of the applicant for the submission); (6) does not include a

[1] FDA has published a final rule extending the Agency's ''tobacco product'' authorities in the FD&C Act to all categories of products that meet the statutory definition of ''tobacco product'' in the FD&C Act, except accessories of such newly deemed tobacco products (Final Rule Deeming Tobacco Products To Be Subject to the Federal Food, Drug, and Cosmetic Act, as Amended by the Family Smoking Prevention and Tobacco Control Act; Restrictions on the Sale and Distribution of Tobacco Products and Required Warning Statements for Tobacco Products (81 FR 28974, May 10, 2016)). This proposed rule would apply to all tobacco products FDA regulates under Chapter IX of the FD&C Act.

required form(s); (7) does not identify the tobacco product; (8) does not identify the type of submission; (9) does not include the signature of a responsible official authorized to represent the applicant; or (10) does not include an environmental assessment or claim of a categorical exclusion, if applicable. Under the proposed rule, if FDA refuses to accept the submission, FDA would send the contact (if available) a notification. If the submission is accepted for further review, FDA would send an acknowledgement letter.

II. Direct Final Rulemaking

This proposed rule is a companion to the direct final rule with the same codified language published in the final rules section of this issue of the **Federal Register**. This companion proposed rule provides the procedural framework to finalize the rule in the event that the direct final rule receives any adverse comment and is withdrawn. The comment period for this companion proposed rule runs concurrently with the comment period for the direct final rule. We are publishing the direct final rule because the rule is noncontroversial, and we do not anticipate that it will receive any significant adverse comments.

An adverse comment is defined as a comment that explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. In determining whether an adverse comment is significant and warrants terminating a direct final rulemaking, we will consider whether the comment raises an issue serious enough to warrant a substantive response in a notice and comment process. Comments that are frivolous, insubstantial, or outside the scope of the rule will not be considered significant or adverse under this procedure. A comment recommending a rule change in addition to the rule would not be considered a significant adverse comment unless the comment provides a reasonable explanation for why the rule would be ineffective without additional change. In addition, if a significant adverse comment applies to an amendment, paragraph, or section of this rule, and that provision can be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not subjects of significant adverse comment.

If no significant adverse comment is received in response to the direct final rule, no further action will be taken related to this proposed rule. Instead, we will publish a confirmation document, before the effective date of the direct final rule, confirming that the direct final rule will go into effect on December 21, 2016. In the **Federal Register** of November 21, 1997 (62 FR 62466), you can find additional information about direct rulemaking procedures in the guidance document entitled ''Guidance for FDA and Industry: Direct Final Rule Procedures.'' This guidance may be accessed at *http://www.fda.gov/regulatoryinformation/guidances/ucm125166.htm.*

III. Purpose and Legal Authority

A. Purpose

FDA is proposing this refuse to accept rule as a means of efficiently handling submissions that do not meet a threshold of acceptability for FDA review, *e.g.,* the submission lacks certain information FDA needs for substantive review of the submission. Currently, FDA often expends extensive time and resources in attempts to obtain information and resolve the deficiencies identified in the proposed rule simply to begin substantively processing the submission. FDA expects that this proposed rule would enhance the quality of the submissions and that submissions would move expeditiously through the review process. In addition, this rule would help submitters better understand the common hurdles FDA encounters in conducting a substantive review of submissions.

The proposed rule identifies deficiencies that FDA has seen across types of premarket submissions and would result in FDA refusing to accept the submission. This proposed rule applies to all tobacco product applications; we note that there are additional deficiencies that are not covered in this rule that may arise for specific types of premarket submissions that would also result in FDA's refusal to accept that specific type of premarket submission (*e.g.,* a PMTA fails to contain specimens of the labeling proposed to be used for such tobacco product under section 910(b)(1)(F) of the FD&C Act).

FDA's refusal to accept a tobacco product submission would not preclude an applicant from resubmitting a new submission that addresses the deficiencies. In addition, acceptance of a submission would not mean that FDA has determined that the submission is complete, but rather only that the submission has met the basic, minimum threshold for acceptance. Substantive review of the submission would begin once FDA accepts the submission, and for submissions with filing requirements (*i.e.,* PMTAs and MRPTAs), once filed. This proposed rule would establish a general process for refusing to accept submissions for premarket tobacco review, including PMTAs, MRTPAs, SE applications, and exemption requests (including subsequent abbreviated reports). Because administratively incomplete submissions would be refused before FDA begins substantive review, we would be able to use our resources on submissions that are more complete and better prepared for further review. In addition, FDA intends to determine, as soon as practicable, whether the submission will be accepted. We expect the amount of time it takes FDA to make this determination to be relatively quick, however, it may vary depending on the volume of submissions received at any one time. FDA remains committed to an efficient product review process and intends to establish and implement performance goals for this action once it has experience with the volume of submissions it will receive after the deeming rule becomes effective. FDA expects the performance goals to be generally similar to other Agency performance goals, *i.e.* a certain percentage of RTA determinations made within a defined period of time, and with the percentage rising over time.

B. Legal Authority

Section 701(a) of the FD&C Act (21 U.S.C. 371(a)) provides FDA with the authority to issue regulations for the efficient enforcement of the FD&C Act. This proposed rule would allow FDA to more efficiently use our resources to review premarket submissions under sections 905, 910, and 911 of the FD&C Act. FDA has processed and reviewed many submissions since the enactment of the Tobacco Control Act, and submissions with the deficiencies identified in the proposed rule have been repeatedly identified by FDA as reflecting submissions that are incomplete and not prepared for further review.

IV. Description of Proposed Regulation

We are proposing to add part 1105 (21 CFR part 1105) to title 21, specifically § 1105.10. Proposed § 1105.10(a) would provide that FDA would refuse to accept, as soon as practicable, PMTAs, MRTPAs, SE applications, and exemption requests (including subsequent abbreviated reports) for the reasons listed in paragraphs (a)(1) through (a)(10), if applicable.

- Proposed § 1105.10(a)(1) states that FDA would refuse to accept a submission that does not pertain to a tobacco product. This provision would

address a submission that refers to a product that does not meet the definition of a ''tobacco product'' under section 201(rr) of the FD&C Act (21 U.S.C. 321(rr)) and, therefore, would not be subject to FDA's tobacco product authorities.

• Proposed § 1105.10(a)(2) states that FDA would refuse to accept a submission that is not in the English language or does not contain complete English translations of any information included with the submission. FDA is unable to read and process such submissions.

• Proposed § 1105.10(a)(3) provides that FDA would refuse to accept a submission if it is provided in an electronic format that FDA cannot process, read, review, and archive. As with submissions that are not in English (or fail to include an English translation), FDA is unable to read and process such a submission. FDA provides information on the electronic formats that it can read, process, review, and archive at *http://www.fda.gov/tobaccoproducts/guidancecomplianceregulatoryinformation/manufacturing/default.htm.*

• Proposed § 1105.10(a)(4) provides that FDA would refuse to accept any submission that does not contain contact information, including the applicant's name and address. If a submission omits the contact information, FDA would not be able to contact the applicant regarding the submission, *e.g.,* with questions or followup related to the submission. In this instance, FDA also would likely be unable to provide notice of the Agency's refusal to accept the submission under § 1105.10(c).

• Proposed § 1105.10(a)(5) provides that FDA would refuse to accept a submission from a foreign applicant if it does not list an authorized U.S. agent for the submission, including the agent's U.S. address. FDA is proposing to require identification of a U.S. agent for two reasons: First, a U.S. agent is important to help CTP ensure adequate notice is provided to applicants for official Agency communications. FDA may be unable to confirm that adequate notice of Agency action or correspondence concerning premarket submissions is provided to foreign applicants as FDA cannot necessarily confirm receipt of correspondence sent internationally. Accordingly, the designation of a U.S. agent provides an official contact to the Agency who can receive the information or documentation on behalf of the applicant. Providing notice regarding that application to the U.S. agent would constitute notice to the foreign applicant. Second, FDA requires identification of a U.S. agent to assist FDA in communication with the foreign applicant and help the Agency to efficiently process applications and avoid delays. In many instances during the application review process, FDA has reached out numerous times to foreign applicants and has either been unable to speak with the applicant or unable to directly communicate questions and/or concerns. This impediment, which occurs more for foreign applicants than domestic applicants, has resulted in delays or terminations in the review of specific applications and a slowdown of the premarket application process as a whole. A U.S. agent would act as a communications link between FDA and the applicant and would facilitate timely correspondence between FDA and foreign applicants, including responding to questions concerning pending applications and, if needed, assisting FDA in scheduling meetings with the foreign applicants to resolve outstanding issues before Agency action is taken. Additionally, the identified U.S. agent would be authorized to act on behalf of the foreign applicant for that specific application.

• Proposed § 1105.10(a)(6) provides that FDA would refuse to accept the submission if it does not include any required FDA form(s). At the time of this proposed rule, FDA has not yet issued any forms to accompany premarket submissions. In the event that FDA does issue such a form(s), the Agency will give interested parties notice and opportunity to comment on such forms in accordance with rulemaking procedures and the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

• Proposed § 1105.10(a)(7) provides that FDA would refuse to accept a submission that does not contain the following product-identifying information (for the product that is the subject of the submission and, if applicable, for the predicate): The manufacturer of the tobacco product; the product name, including brand and subbrand; product category (*e.g.,* cigarette) and subcategory (*e.g.,* combusted, filtered); package type (*e.g.,* box) and package quantity (*e.g.,* 20 per box); and characterizing flavor (*i.e.,* applicants must state the characterizing flavor, such as menthol, or state that there is no characterizing flavor present in the tobacco product). For example, in table 1, FDA has supplied a list of recommended categories and subcategories of some tobacco products to assist applicants in providing product-identifying information in their submissions. Note that there may be other information FDA needs to identify a particular product, *e.g.,* descriptors (such as ''premium'') that are separate from the product name. If this is the case, such information should be provided by the applicant in the initial submission to facilitate FDA's efficient review.

TABLE 1—TOBACCO PRODUCTS CATEGORIES AND SUBCATEGORIES

Tobacco product category	Tobacco product subcategory
Cigarettes	Combusted, Filtered.
	Combusted, Non-Filtered.
	Combusted, Other.
	Non-Combusted.
Roll-Your-Own Tobacco Products	Roll-Your-Own Tobacco Filler.
	Rolling Paper.
	Filtered Cigarette Tube.
	Non-Filtered Cigarette Tube.
	Filter.
	Paper Tip.
	Roll-Your-Own Co-Package.
	Other.
Smokeless Tobacco Products	Loose Moist Snuff.
	Portioned Moist Snuff.

TABLE 1—TOBACCO PRODUCTS CATEGORIES AND SUBCATEGORIES—Continued

Tobacco product category	Tobacco product subcategory
	Loose Snus.
	Portioned Snus.
	Loose Dry Snuff.
	Dissolvable.
	Loose Chewing Tobacco.
	Portioned Chewing Tobacco.
	Smokeless Co-Package.
	Other.
ENDS (Electronic Nicotine Delivery System)	Open E-Liquid.
	Closed E-Liquid.
	Closed E-Cigarette.
	Open E-Cigarette.
	ENDS Component.
	ENDS Co-Package.
	ENDS Other.
Cigars	Filtered, Sheet-Wrapped Cigar.
	Unfiltered, Sheet-Wrapped Cigar.
	Leaf-Wrapped Cigar.
	Cigar Component.
	Cigar Tobacco Filler.
	Cigar Co-Package.
	Other.
Pipe Tobacco Products	Pipe.
	Pipe Tobacco Filler.
	Pipe Component.
	Pipe Co-Package.
	Other.

This product-specific information helps ensure that the product is within CTP's purview and enables FDA to appropriately identify the specific product that is the subject of the submission. Specifically, this information is necessary to both review the submission itself and to issue an order that appropriately identifies the tobacco product that is subject to the order. For example, an SE submission contains a comparison between the predicate and new products. If FDA does not know the exact products that are being compared, FDA would be unable to sufficiently understand and evaluate the comparison to determine whether the products are substantially equivalent. As another example, if an applicant does not specify whether its proposed new product contains a characterizing flavor, FDA would not be able to issue an order as it will not know the specific product for which the applicant is seeking an order (*e.g.,* product X menthol or product X cinnamon.)

- Proposed § 1105.10(a)(8) provides that FDA would refuse to accept a submission if the applicant fails to indicate the type of submission (*i.e.,* PMTA, MRTPA, SE application, or exemption request or subsequent abbreviated report), because that information is necessary to enable FDA to begin an appropriate review of the submission.
- Proposed § 1105.10(a)(9) provides that FDA would refuse to accept a submission if it does not contain a signature of a responsible official, authorized to represent the applicant who either resides in or has a place of business in the United States. A signature provides assurance to FDA that the submission is both intended by the applicant and ready for review. Responsible officials also should be aware that under 18 U.S.C. 1001, it is illegal to knowingly and willingly submit false information to the U.S. Government.
- Proposed § 1105.10(a)(10) would apply only to PMTAs, MRTPAs, SE applications, and exemption requests (this subsection does not apply to the subsequent abbreviated report). For these submissions, this proposed paragraph provides that FDA would refuse to accept the submission if it does not include an environmental assessment (EA) or a valid claim of categorical exclusion prepared in accordance with 21 CFR 25.40. Under § 25.15(a) (21 CFR 25.15), all submissions requesting FDA action require the submission of either a claim of categorical exclusion or an EA. Because an EA is required for an initial exemption request, it is not also required for an abbreviated report, and thus would not be a basis for FDA to refuse to accept an abbreviated report. In addition, § 25.15(a) provides that FDA may refuse to file a submission if the included EA fails to address ''the relevant environmental issues.'' Because the SE and SE Exemption pathways do not include a filing stage, FDA intends to determine such adequacy at the acceptance stage for those pathways.[2] The EA or claim of categorical exclusion must be made for the Agency action being proposed (*e.g.,* issuance of an SE order for introduction of such new tobacco product into interstate commerce for commercial distribution in the United States.). For information on preparing an EA, refer to § 25.40.

Proposed § 1105.10(b) provides that if FDA does not identify a reason under paragraph (a) for refusing to accept a premarket review submission, then the Agency may accept it for processing and further review. If FDA does accept the submission, the Agency intends to send the submitter an acknowledgement letter stating that FDA has accepted the submission for processing and further review. This letter would also include a premarket submission tracking number.

Proposed § 1105.10(c) provides that if FDA identifies a reason under paragraph (a) for refusing to accept a premarket review submission, we would notify the applicant in writing of the reason(s) and that FDA has not accepted the submission for processing and further review. However, FDA would not be able to provide this information when

[2] The PMTA and MRTPA pathways, by contrast, have a filing stage.

the contact information has not been provided or is not legible. If FDA would refuse to accept the submission for one or more of the reasons stated in § 1105.10, the submitter may revise the submission to correct the deficiencies and resubmit it to FDA as a new submission.

V. Paperwork Reduction Act of 1995

FDA tentatively concludes that this proposed rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

VI. Federalism

We have analyzed this proposed rule in accordance with the principles set forth in Executive Order 13132. We have determined that the proposed rule does not contain policies 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. Accordingly, we conclude that the rule does not contain policies that have federalism implications as defined in the Executive Order and, consequently, a federalism summary impact statement is not required.

VII. Tribal Consultation

We have analyzed this proposed rule in accordance with the principles set forth in Executive Order 13175. We have determined that the rule does not contain policies that would have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. Accordingly, we conclude that the rule does not contain policies that have tribal implications as defined in the Executive Order; consequently, a tribal summary impact statement is not required.

VIII. Analysis of Environmental Impact

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

IX. Economic Analysis of Impacts

We have examined the impacts of the proposed rule under Executive Order 12866, Executive Order 13563, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Orders 12866 and 13563 direct us to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). We believe that this proposed rule is not a significant regulatory action as defined by Executive Order 12866.

The Regulatory Flexibility Act requires us to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because this proposed rule would establish a procedure that FDA would be responsible for implementing and would have the effect of providing all entities useful feedback on the readiness of a submission, we certify that the proposed rule will not have a significant economic impact on a substantial number of small entities.

The Unfunded Mandates Reform Act of 1995 (section 202(a)) requires us to prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $146 million, using the most current (2015) Implicit Price Deflator for the Gross Domestic Product. This proposed rule would not result in expenditure in any year that meets or exceeds this amount.

This proposed rule identifies 10 significant and common deficiencies in premarket tobacco submissions that will cause FDA to refuse to accept them. Encouraging submissions that are free of the deficiencies listed in this rule does not represent a change in Agency expectations. One of the 10 deficiencies is required by statute (*i.e.,* must be a tobacco product). One of the deficiencies is required by another regulation (*i.e.,* must comply with environmental considerations). The remaining eight deficiencies are basic expectations for an application to enter the review process. Therefore, this proposed rule would clarify these expectations. This clarification would result in cost savings for both the applicant and FDA as less time is spent by FDA working with applicants to address these significant deficiencies. Applicants would have clarity about basic expectations of the requirements needed for acceptance of premarket applications. In addition, refusing to accept submissions with these deficiencies would allow Agency staff to more efficiently process submissions and quickly move those submissions without these deficiencies into review of substantial scientific issues.

List of Subjects in 21 CFR Part 1105

Administrative practices and procedures, Tobacco, Tobacco products.

Therefore, under the Federal Food, Drug, and Cosmetic Act, and under authority delegated to the Commissioner of Food and Drugs, 21 CFR chapter I is proposed to be amended by adding part 1105.

PART 1105—GENERAL

Sec.

1105.10 Refusal to accept a premarket submission

Authority: 21 U.S.C. 371(a), 387e, 387j, and 387k.

Subpart A—General Submission Requirements

§ 1105.10 Refusal to accept a premarket submission.

(a) FDA will refuse to accept for review, as soon as practicable, a premarket tobacco product application, modified risk tobacco product application, substantial equivalence application, or exemption request or subsequent abbreviated report for the following reasons, if applicable:

(1) The submission does not pertain to a tobacco product as defined in 21 U.S.C. 321(rr).

(2) The submission is not in English or does not contain complete English translations of any information submitted within.

(3) If submitted in an electronic format, the submission is in a format that FDA cannot process, read, review, and archive.

(4) The submission does not contain contact information, including the applicant's name and address.

(5) The submission is from a foreign applicant and does not identify an authorized U.S. agent, including the agent's name and address, for the submission.

(6) The submission does not contain a required FDA form(s).

(7) The submission does not contain the following product-identifying information: The manufacturer of the tobacco product; the product name, including the brand and subbrand; the product category and subcategory; package type and package quantity; and characterizing flavor.

(8) The type of submission is not specified.

(9) The submission does not contain a signature of a responsible official, authorized to represent the applicant, who either resides in or has a place of business in the United States.

(10) For premarket tobacco applications, modified risk tobacco product applications, substantial equivalence applications, and exemption requests only: The submission does not include an environmental assessment, or a valid claim of categorical exclusion in accordance with part 25 of this chapter.

(b) If FDA finds that none of the reasons in paragraph (a) of this section exists for refusing to accept a premarket submission, FDA may accept the submission for processing and further review. FDA will send to the submitter an acknowledgement letter stating the submission has been accepted for processing and further review and will provide the premarket submission tracking number.

(c) If FDA finds that any of the reasons in paragraph (a) of this section exist for refusing to accept the submission, FDA will notify the submitter in writing of the reason(s) and that the submission has not been accepted, unless insufficient contact information was provided.

Dated: August 1, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–18533 Filed 8–5–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

28 CFR Part 31

[Docket No.: OJP (OJJDP) 1719]

RIN 1121–AA83

Juvenile Justice and Delinquency Prevention Act Formula Grant Program

AGENCY: Office of Justice Programs, Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of Justice Programs (''OJP'') proposes to update the implementing regulation for the Formula Grant Program authorized by Title II, Part B, of the Juvenile Justice and Delinquency Prevention Act of 1974 (''the Act'' or ''JJDPA''). The purpose of the Formula Grant Program is to provide formula grant awards to states to support juvenile delinquency prevention programs and to improve their juvenile justice systems. The proposed rule would supersede the existing Formula Grant Program regulations to reflect changes in the 2002 JJDPA reauthorization as well as policy changes to the Formula Grant Program.

DATES: Comments must be received by no later than 11:59 p.m., E.T., on October 7, 2016.

ADDRESSES: You may view an electronic version of this proposed rule at *http://www.regulations.gov,* and you may also comment by using the *www.regulations.gov* form for this regulation. OJP welcomes comments from the public on this proposed rule and prefers to receive comments via *www.regulations.gov* when possible. When submitting comments electronically, you should include OJP Docket No. 1719 in the subject box. Additionally, comments may also be submitted via U.S. mail, to: Mr. Gregory Thompson, Senior Advisor, Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Department of Justice, 810 7th Street NW., Washington, DC 20531. To ensure proper handling, please reference OJP Docket No. 1719 on your correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory Thompson, Senior Advisor, Office of Juvenile Justice and Delinquency Prevention, at 202–307–5911.

SUPPLEMENTARY INFORMATION:

I. Posting of Public Comments

Please note that all comments received are considered part of the public record and made available for public inspection online at *http://www.regulations.gov.* Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter.

If you wish to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not wish for it to be posted online, you must include the phrase ''PERSONAL IDENTIFYING INFORMATION'' in the first paragraph of your comment. You must also locate all the personal identifying information you do not want posted online in the first paragraph of your comment and identify what information you want redacted.

If you wish to submit confidential business information as part of your comment but do not wish it to be posted online, you must include the phrase ''CONFIDENTIAL BUSINESS INFORMATION'' in the first paragraph of your comment. You must also prominently identify confidential business information to be redacted within the comment. If a comment has so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be posted on *http://www.regulations.gov.*

Personal identifying information identified and located as set forth above will be placed in the agency's public docket file, but not posted online. Confidential business information identified and located as set forth above will not be placed in the agency's public docket file, nor will it be posted online. If you wish to inspect the agency's public docket file in person by appointment, please see the ''**FOR FURTHER INFORMATION CONTACT**'' paragraph.

II. Executive Summary

A. Purpose of the Proposed Regulatory Action

Title II, Part B, of the JJDPA authorizes the Administrator of the Office of Juvenile Justice and Delinquency Prevention (OJJDP) to make formula grant awards to participating states to assist them in planning, establishing, operating, coordinating, and evaluating projects directly or through grants and contracts with public and private agencies for the development of more effective education, training, research, prevention, diversion, treatment, and rehabilitation programs in the area of juvenile delinquency and programs to improve the juvenile justice system. OJP proposes this rule pursuant to the rulemaking authority granted to the Administrator under 42 U.S.C. 5611. The proposed rule would codify and update the existing regulation promulgated at 60 FR 21852 on May 31, 1995, and amended at 61 FR 65132 on December 10, 1996 (the ''current regulation''), to reflect statutory changes included in the 2002 reauthorization of the JJDPA as well as changes in OJP policy regarding administration of the commonly-named Part B Formula Grant Program (Formula Grant Program).

B. Summary of the Major Provisions of the Proposed Regulatory Action

As discussed more fully in section IV, below, the proposed rule contains the following major provisions that differ from the current regulation: (1) Establishing new substantial compliance standards in place of the current *de minimis* standards for determining states' compliance with the

deinstitutionalization of status offenders (DSO), (42 U.S.C. 5633(a)(11)), separation (42 U.S.C. 5633(a)(12)), and jail removal (42 U.S.C. 5633(a)(13) requirements; (2) codifying the requirement authorized under the Act at 42 U.S.C. 5633(a)(14) that states must annually submit compliance monitoring data from 100% of facilities that are required to report such data; (3) changing the compliance data reporting period to the federal fiscal year, as required by the Act at 42 U.S.C. 5633(c); (4) providing a definition for the term ''detain or confine'' as used in the separation and jail removal requirements; and (5) providing a definition of ''placed or placement,'' as used in the DSO requirement.

In addition, the proposed rule would eliminate portions of the current regulation that (1) are repetitive of statutory text, including definitions that are included in the Act at 42 U.S.C. 5603; (2) contain references to statutory, regulatory and other requirements that apply to all OJP grantees and that are found elsewhere (such as those described in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, at 2 CFR part 200); (3) were rendered obsolete by the 2002 JJDPA reauthorization; (4) are recommendations, rather than requirements for compliance and will be included in OJJDP policy guidance; and (5) are included in the Formula Grant Program solicitation, and that need not be included in the rule.

C. Cost and Benefits

Although it is difficult to quantify the financial cost that states would incur under the proposed rule, some of the proposed provisions would require states to dedicate additional time and resources to collecting, verifying, and reporting additional compliance monitoring data, using the on-line data collection tool that OJJDP will provide. In addition, the proposed new compliance standards may result in more states' being found out of compliance than would be out of compliance under the current standards. OJP discusses below some of the estimated costs to states of the proposed rule.

Under the proposed new compliance standards for DSO, separation, and jail removal, forty-eight states, based on 2013 compliance data, would be out of compliance with one or more of these requirements. As a result, pursuant to the requirements of the JJDPA, these states would be required to expend 50% of their reduced allocation to achieve compliance with the core requirement(s) for which a determination of non-compliance was made. At least in the short term, less funding would be available to pass through to local entities, to provide programming and services for at-risk youth, and *per capita* spending for this population would be reduced. It should be noted however, that prior to the proposed compliance standards taking effect, OJJDP would provide targeted training and technical assistance to those states and localities that have been identified as experiencing issues impacting their ability to comply with all of the requirements of the JJDPA. Ultimately, the desired outcome would be that fewer at-risk youth would be placed or detained in juvenile facilities, resulting in reduced operational costs for the facilities, and redirecting these savings for additional programing and services for youth at their earliest involvement with the juvenile justice system.

III. Background

OJJDP administers the Formula Grant Program, pursuant to Title II, part B, of the JJDPA, authorized at 42 U.S.C. 5631, *et seq.* The Formula Grant Program authorizes OJJDP to provide formula grants to states to assist them in planning, establishing, operating, coordinating, and evaluating projects directly or through grants and contracts with public and private agencies for the development of more effective education, training, research, prevention, diversion, treatment, and rehabilitation programs in the area of juvenile delinquency and programs to improve the juvenile justice system. ''State'' is defined in the JJDPA as ''any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands[.]'') (42 U.S.C. 5603(7)). The JJDPA was originally enacted in 1974, authorizing the Formula Grant Program under Title II, Part B, and was reauthorized and amended in 1980, 1984, 1988, 1992, and 2002. With respect to the core requirements, the original Act addressed only the DSO and separation requirements. In 1980, the Act was amended to add the jail removal requirement. The 1988 amendments added the requirement that states address disproportionate minority confinement. When the Act was amended in 1992, the Formula Grant Program was amended to require that each state's formula grant funding would be reduced by 25% for each core requirement(s) with which it was determined to be out of compliance. In addition, a non-compliant state would be required to spend its remaining formula grant allocation for that year on achieving compliance with the core requirement(s) with which it was determined to be out of compliance. The 1992 JJDPA amendments also elevated the disproportionate minority confinement requirement to a core requirement, non-compliance with which would result in states' funding being reduced. The 2002 reauthorization decreased the amount of the reduction for non-compliance with each core requirement to 20%, and reduced to 50% the amount that states were required to spend to come into compliance with the core requirements; changed ''disproportionate minority confinement'' to ''disproportionate minority contact''; and added the requirement that states have in effect a policy that individuals who work with both juveniles and adult inmates be trained and certified to work with juveniles.

These formula grant dollars fund programs that serve over 170,000 at-risk youth per year and allow appropriate youth to stay in their communities rather than face secure detention. If detaining the youth is necessary, these funds can be used to ensure they are held pursuant to the core requirements of the JJDPA.

The Formula Grant Program provides funds for services to youth across the juvenile justice continuum. Examples include diversion programs, delinquency and gang prevention programs, community-based programs and services, after-school programs, alternative-to-detention programs, programs to eliminate racial and ethnic disparities at all decision and contact points in the juvenile justice system, the provision of indigent defense services, and aftercare and reentry assistance. As noted in OJJDP's Annual Report, during FY 2014, the latest year for which data is available, a total of 173,340 youth participants were served in various programs funded by formula grants. Of that number, 86% of program youth exhibited a desired change in the targeted behavior in the short term. Targeted behaviors and risk factors included antisocial behavior, truancy, substance use, low self-esteem, problematic family relationships, and other areas that need to be addressed to ensure positive youth development. Measures of long-term outcomes also showed a positive trend—88% of program youth exhibited a desired change in the targeted behavior 6–12 months after leaving or completing the funded program. A significant number of grantees funded through formula grants report that they are implementing

evidenced-based programs or practices. In fact, during FY 2014, 42% of grantees and subgrantees implemented evidenced-based programs or practices.

Unlike the many OJP grant programs that are discretionary in character, the Formula Grant program is a mandatory statutory formula program—that is, a statutory program, in the nature of an entitlement, where the amount of each grant, and the identity of each recipient, typically is determined using a statutorily-prescribed formula based (in this instance) on the relative number of individuals under age eighteen in the recipient jurisdiction's population, pursuant to the Act at 42 U.S.C. 5632(2). Under title II, part B, of the Act, OJJDP is *required* to make an award to each participating state, so long as the conditions established by law are met; once those conditions are met by a given state, a legal right to the grant (in the amount specified by the legal formula) is established, and OJJDP has no legal warrant to refuse to award it, or to award a lesser (or greater) amount.[1]

States receiving formula grant funding from OJJDP are obligated to follow the requirements in the Act. Among other provisions, the Act includes four ''core requirements,'' referred to as such because the Formula Grant Program funding that states receive is reduced by 20% for each of these requirements with which OJJDP determines the state to be non-compliant. These core requirements are deinstitutionalization of status offenders (DSO) (42 U.S.C. 5633(a)(11)), separation (42 U.S.C. 5633(a)(12)), jail removal (42 U.S.C. 5633(a)(13)), and disproportionate minority contact (DMC) (42 U.S.C. 5633(a)(22)).

The DSO requirement provides that status offenders and non-offenders who are aliens or are alleged to be dependent, neglected, or abused, shall not be placed in secure detention or confinement. Status offenses are offenses that would not be a crime if committed by an adult, *e.g.,* truancy, running away from home, and violating curfew.

The separation requirement of the JJDPA provides that juveniles shall not be detained or confined such that they have sight or sound contact with adult inmates.

The jail removal requirement of the JJDPA provides that (with limited exceptions) states may not detain or confine juveniles in adult jails or lockups.

Finally, the DMC requirement provides that states must work to address, with the goal of reducing, the disproportionate number of juveniles within the juvenile justice system who are members of minority groups.

The process used for establishing the compliance determination measure for the DSO requirement under the current regulation was to collect data regarding the number of instances of non-compliance with the DSO requirement for eight states in 1979 (two from each of the four Census Bureau regions), and data regarding the number of instances of non-compliance with the jail removal requirement for twelve states in 1986 (three from each of the four Census Bureau regions). The states selected were those with the lowest rates of non-compliance per 100,000 juvenile population that also had been identified as having an adequate system of monitoring for compliance. A detailed description of the process for developing the standard measures of compliance with the DSO requirement was published on January 9, 1981 (46 FR 2566), and the process for developing the standard measures for compliance with the jail removal requirement was published on November 2, 1988 (53 FR 44370).

Although compliance determinations for the DSO, separation, and jail removal requirements are based on specific numerical standards, this has not been the case for the DMC requirement. The JJDPA provides that states must ''address'' disproportionate minority contact, but does not provide specific guidance as to how states' compliance with the DMC requirement should be determined, other than to prohibit the use of numerical standards or quotas. In April 2013, the OJJDP Administrator determined that OJJDP's method for determining states' compliance with DMC warranted revisions to ensure that compliance determinations were based on a standard that was more consistent and objective. This proposed rule, along with the new DMC assessment tool, will result in more consistent and objective DMC compliance determinations.

OJP's current Formula Grant Program regulation was published on May 31, 1995, and amended on December 31, 1996. In 2002, the JJDPA was reauthorized. This proposed rule, when finalized, will supersede the regulation published in December 1996, reflecting the statutory changes enacted in the 2002 reauthorization to bring the regulation in line with the JJDPA. The proposed rule also reflects OJP policy changes, as outlined in section IV of this preamble.

OJP invites and welcomes comments from states and territories, organizations, and individuals involved in youth development, juvenile justice, and delinquency prevention, as well as any other members of the interested public, on any aspects of this proposed rulemaking. All comments will be considered prior to publication of a final rule.

IV. Discussion of Changes Proposed in This Rulemaking

Proposed New Standards for Compliance With the DSO, Separation, and Jail Removal Requirements

OJP proposes a significant change to the standards for determining compliance with the DSO, separation, and jail removal requirements. The standards for the DSO and separation requirements were established in 1981, and the jail removal compliance standard was established in 1988. These standards are discussed in more detail below. In general, these standards provide that, depending upon a state's rate of non-compliance with the DSO, separation, or jail removal requirements, the state may still be determined to be in compliance if it demonstrates that it meets specific criteria, such as having recently enacted state laws that can reasonably be expected to prevent future instances of non-compliance and an acceptable plan to prevent future instances of non-compliance. These standards can be found in the current regulation at section 31.303(f)(6)(i) and 46 FR 2566 (January 9, 1981) (DSO), 31.303(f)(6)(ii) (separation), and 31.303(f)(6)(iii) and 46 FR 44370 (November 2, 1988) (jail removal).

The principle of the *de minimis* standard, whereby something less than 100% compliance with statutory provisions is deemed sufficient, has long been accepted and applied in the context of interpreting federal statutes. *Washington Red Raspberry Comm'n* v. *United States,* 859 F.2d 898, 902 (Fed. Cir. 1988). (''The *de minimis* concept is well-established in federal law. Federal courts and administrative agencies repeatedly have applied the *de minimis* principle in interpreting statutes, even when Congress failed explicitly to provide for the rule.'')

The proposed new standards would create numerical thresholds above which states are out of compliance, thereby allowing for more consistent, objective determinations of states' compliance with the DSO, separation, and jail removal requirements.

OJP is proposing new terminology that would refer to a ''substantial compliance'' test for measurement of compliance with these standards. Such a test would continue to encourage the elimination of all instances of non-

[1] *See, e.g., City of Los Angeles* v. *Coleman,* 397 F. Supp. 547 (D.D.C. 1975).

compliance but allow for a statistically inconsequential number of violations for the DSO and jail removal requirements without loss of Title II Part B funding to states. The new standard for compliance with the separation requirement would require that states have zero instances of non-compliance. OJP recognizes and commends the significant progress states have made in reducing instances of non-compliance with the DSO, separation, and jail removal requirements since the standards for compliance were developed. For example, when comparing self-reported baseline data for these three standards compiled in the 1990s to data submitted covering calendar year 2013, the number of status offenders placed in secure correctional or secure detention facilities constituting instances of non-compliance with the DSO requirement has decreased by 99.9 percent, from 171,076 to 1,960; the number of juveniles detained or confined in institutions in which they have contact with adult inmates has decreased 99.9 percent, from 81,810 to 59; and the number of juveniles detained or confined in adult jails or lockups constituting instances of non-compliance has decreased 99.8 percent from 154,618 to 2,765. As a reflection of the continued progress over the past years made by states in improving compliance, the acceptable level of deviation allowable to remain in substantial compliance needs to be adjusted to reflect the new compliance reality.

Accordingly, in order to ensure that the core requirements continue to protect the safety and well-being of juveniles and are reflective of states' significant progress since the enactment of the JJDPA, OJP is proposing to update the statistical measures of compliance with the DSO, separation, and jail removal requirements. The new compliance standard for the jail removal requirement would follow the same methodology originally used to develop the standard for compliance with that requirement. To align with the jail removal compliance determination standard, OJP is proposing to follow a similar methodological process to establish compliance determination standards for the separation and DSO core requirements. As with jail removal, OJP will use data from three states from each of the four Census Bureau regions. The states selected will be those with the lowest non-compliance rates per 100,000 juvenile population, and which have also been determined to have an adequate compliance monitoring system.

Although the methodology originally used to establish the compliance standards for DSO in 1979 involved using data from two states in each of the four Census Bureau Regions, OJJDP is proposing to align with the methodology that was used to establish the jail removal compliance standards in 1986, and which is also being used to establish the separation compliance standard, which uses data from three states in each of the Census Bureau regions.

Following this methodology, and based on the compliance data from calendar year 2013, OJJDP is proposing that the substantial compliance rate for DSO be at or below 0.24. Using the lowest rates for three states in each of the Census Bureau regions would produce the following rates of compliance: Region I—Maine (0), New York (0), Pennsylvania (0.39); Region 2—Nebraska (0), Michigan (0.12), Iowa (0.69); Region Region 3—Delaware (0), Florida (0.51), Louisiana (0.59); and, Region 4—Alaska (0), Nevada (0.30), and Hawaii (0.33). The average rate for these twelve states would be 0.24 per 100,000 juvenile population.

Following the same process, using three states from each Census Bureau region for the jail removal requirement, the results would be as follows: Region 1—Maine (0), New York (0), Massachusetts (0.54); Region 2—North Dakota (0), South Dakota (0), Nebraska (0); Region 3—District of Columbia (0), Texas (0.07), Georgia (0.19); and, Region 4—Utah (0.23), Nevada (0.30) and Hawaii (0.33). The average rate for these twelve states would be 0.12 per 100,000 juvenile population.

Applying the same methodology used for the DSO and jail removal requirements to the separation requirement (something not done previously), the result would be as follows: Region 1—Connecticut (0), Maine (0), New Hampshire (0); Region 2—Illinois (0), Indiana (0), Iowa (0); Region 3—Alabama (0), Kentucky (0), Louisiana (0); and, Region 4—Arizona (0), California (0) and Colorado (0). Using this methodology, to be in compliance with the separation requirement, states would be required to report zero instances of non-compliance.

Unlike the current *de minimis* standards, these new standards for the DSO and jail removal requirements would establish a numerical threshold at or below which states will be in compliance and above which states will be out of compliance. Under the current *de minimis* standard, states have been allowed to demonstrate compliance by meeting certain criteria depending upon their rate of non-compliance. With the new standard, states will automatically be in or out of compliance depending on their rate, without regard to such factors as whether the state has recently enacted laws designed to eliminate the instances of compliance, whether the instances constituted a pattern or practice, or any other factors. OJP will review these compliance determination standards at least every five years for possible revision.

OJP welcomes comments on the methodology for setting the proposed standards for determining states' compliance with these three core requirements, which reflect one possible approach for determining compliance. OJP encourages suggestions for other possible methods for determining compliance with the core requirements.

Proposed Requirement That States Annually Report Compliance Data for 100% of Facilities

Section 31.7(4)(i) of the proposed rule would require that states provide compliance monitoring data for each federal fiscal year reporting period, for 100% of the facilities within the state that are required to report on compliance with the DSO, separation, and jail removal requirements. This would revise the standard under the current regulation that provides that states can submit a minimum of six months of data, and allows states to project, or annualize, that data to cover a twelve-month period. The new reporting requirement that states provide for 100% of facilities that are required to report will ensure that OJJDP can make a more accurate determination of whether each state has achieved compliance with these three core requirements. States' 2013 Compliance Monitoring Reports include the percentage of facilities reporting data from the following five categories: Juvenile detention facilities, juvenile correctional facilities, adult jails, adult lockups, and collocated facilities. Thirty-three states and territories report data from 100% of all five categories of facilities; eleven states report data from at least 95% of each of the five categories of facilities; and eleven states and territories report data from less than 95% in at least one of the five categories of facilities. States may request that the Administrator grant a waiver, for good cause, of the provision that 100% of facilities must report.

Proposed Changes to the DMC Requirement

In 1988, the Act was amended to require that all states participating in the Formula Grant Program address disproportionate minority confinement in their state plans. Specifically, the amendment required that if the proportion of a given group of minority youth detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups exceeded the proportion that group represented in the general population, the state was required to develop and implement plans to reduce the disproportionate representation.

The 1992 amendments to the JJDPA elevated disproportionate minority confinement to a core requirement, tying 25 percent of each state's Formula Grant allocation for that year to compliance with that requirement. The 2002 reauthorization of the JJDPA modified the DMC requirement to require all states that participate in the Formula Grant Program address ''juvenile delinquency prevention efforts and system improvement efforts designed to reduce, without establishing or requiring numerical standards or quotas, the disproportionate number of juvenile members of minority groups who come into contact with the juvenile justice system.'' This change broadened the requirement from disproportionate minority ''confinement'' to disproportionate minority ''contact'' (DMC), to address the overrepresentation of minority youth at all stages of the juvenile justice system, not merely when such youth are subject to confinement. (In addition, in the 2002 reauthorization, the reduction in funding for non-compliance with each of the core requirements was reduced from 25% to 20%.)

The proposed rule reflects the change from ''disproportionate minority confinement'' to ''disproportionate minority contact'' in the JJDPA's 2002 reauthorization. In addition, the most significant change to DMC compliance in the proposed rule is the codification of the 5-phase reduction model that OJJDP previously implemented and that states have already been using.

Under proposed section 31.9(d), a state would be in compliance with DMC when it includes a DMC report within its state plan that contains a detailed description of adequate progress in implementing the 5-phase reduction model, which includes: (1) *Identification* of the extent to which DMC exists; (2) *Assessment and comprehensive analysis* to determine the significant factors contributing to DMC at each contact point; (3) *Intervention* strategies to reduce DMC; (4) *Evaluation* of the effectiveness of the delinquency prevention and system-improvement strategies; and (5) *Monitoring* to track changes in DMC statewide and in the local jurisdictions to determine whether there has been progress towards DMC reduction.

This 5-phase reduction model which, as noted previously, states have already been using, would replace the provision in the current regulation, under which compliance with DMC is achieved when a state meets the following three requirements in its state plan: (1) *Identification* of whether DMC exists; (2) *Assessment* of DMC—including identification and explanation of differences in arrest, diversion, and adjudication rates; and (3) *Intervention* through a time-limited plan of action for reducing DMC, which must address diversion, prevention, reintegration, policies and procedures, and staffing and training. 28 CFR 31.303(j).

Proposed section 31.9(d)(1)(i) would codify the requirement implemented through OJJDP policy in 2003 that states use the Relative Rate Index to describe the extent to which minority youth are overrepresented in a state's juvenile justice system. The Relative Rate Index (RRI) is a method that involves comparing the relative volume (rate) of activity at each major stage of the juvenile justice system for minority youth with the volume of that activity for white (majority) youth. The RRI provides a single index number that indicates the extent to which the volume of that form of contact or activity differs for minority youth and white youth. In its simplest form, the RRI is the rate of activity involving minority youth divided by the rate of activity involving majority youth. (For additional and more detailed information regarding the use of the RRI, please refer to Chapter 1 of the DMC Technical Assistance Manual, 4th Edition, located on OJJDP's Web site at *http://www.ojjdp.gov/compliance/dmc_ta_manual.pdf*).

Prior to 2013, OJJDP relied on the expertise of individual staff to identify the strengths and weaknesses of a state's plan and determine whether a state was in compliance with the DMC requirement. In 2013, OJJDP determined that the process it was using to determine DMC compliance was not sufficiently objective to ensure consistent determinations. Thus, beginning in September 2013, states received compliance determination letters indicating that they were not out of compliance with the DMC requirement. States have been strongly encouraged to prioritize and increase their efforts to eliminate systemic racial and ethnic disparities and to seek training and technical assistance from OJJDP to assist them with fully implementing the OJJDP DMC Reduction Model. OJJDP staff has continued to review states' DMC compliance plans with the goal of providing technical assistance to the states.

In order to more effectively and objectively assess the extent to which states are in compliance with the DMC requirement, OJJDP is implementing internal standards to determine if states are adequately addressing DMC. To this end, OJJDP is developing a statistical tool—in consultation with three technical assistance grantees who are leading experts in the field of racial and ethnic disparities—that will assess states' progress in addressing DMC. States' responses to a set of objective questions addressing each of the phases in the 5-phase reduction model will result in a score that will inform OJJDP in determining states' compliance with the DMC requirement. The more objective tool will allow OJJDP to better assess states' efforts in addressing DMC, which will facilitate the provision of more effective technical assistant to states to assist them in reducing DMC. OJJDP will provide more information prior to implementation of the tool, which will be finalized by September 30, 2016.

Through states' adherence to the 5-phase reduction model, and OJJDP's implementation of the objective assessment tool, the states and OJJDP will be in a better position to effectively address and reduce DMC where it exists.

Proposed section 31.9(d)(1)(i) would also require that states obtain the Administrator's approval for the selection of the three local jurisdictions with the highest minority concentration or with focused DMC-reduction efforts, for which states must use the Relative Rate Index to determine whether—and the extent to which—DMC exists at the following contact points within the juvenile justice system: Arrest, diversion, referral to juvenile court, charges filed, placement in secure correctional facilities, placement in secure detention facilities, adjudication as delinquent, community supervision, and transfer to adult court.

The proposed rule includes the following additional proposed changes to the DMC requirement: (1) Eliminating references to the ''Phase I Matrix'' and to the ''Phase II Matrix'', which have been replaced with the 5-phase reduction model; (2) requiring that an

assessment and comprehensive analysis to determine the significant factors contributing to DMC at each contact point must be completed within twelve months of the identification of the existence of DMC (providing that the Administrator may grant an extension) (section 31.9(d)(1)(ii)); (3) prescribing when an assessment and analysis of DMC must be conducted (section 31.9(d)(ii)); (4) adding a requirement that states conduct an evaluation within three to five years of the intervention required under section 31.9(d)(iii), of the effectiveness of the intervention (section 31.9(d)(1)(iv)); (5) adding a requirement that states monitor to track changes in DMC to identify emerging issues affecting DMC and to determine whether progress towards DMC reduction has been made (section 31.9(d)(1)(v)); (6) requiring states to provide a timetable for implementing a data collection system to track progress towards reduction of DMC, including, where DMC has been found to exist, a description of the prior-year's progress toward reducing DMC and an adequate DMC-reduction implementation plan (section 31.9(d)(1)(v)); (7) deleting the requirement that the intervention plan address diversion, prevention, reintegration, policies and procedures, and staffing and training; (8) changing the term ''minority populations'' to ''minority groups,'' to reflect the U.S. Census Bureau race and ethnicity categories, and including it in the definition section in section 31.2 of the proposed rule; and (9) requiring that states report DMC data on the same federal fiscal year schedule on which they report compliance data for the DSO, separation, and jail removal requirements.

Compliance Reporting Period Changed to Federal Fiscal Year

Proposed section 31.8 would change the reporting period for compliance monitoring data to the federal fiscal year, consistent with the JJDPA. Under 42 U.S.C. 5633(c), ''if a State fails to comply with [the core requirements] in any *fiscal year* . . . the amount allocated to such State . . . for the subsequent fiscal year beginning after September 30, 2001 . . . shall be reduced.'' (Emphasis added.) By its terms, this provision contemplates that the relevant period for determining compliance is the federal *fiscal* year. The fact that the statute specifically references the ''fiscal year beginning after September 30, 2001 . . .'' indicates that states were required to be in compliance for the federal fiscal year beginning on October 1, 2001, and that annually thereafter states' compliance would be evaluated based on data reported for each federal fiscal year.

Proposed Definitions

Proposed section 31.2 would provide definitions for some terms that are used but not defined in the JJDPA, and for some terms that are used in the regulation itself. Notably, this proposed rule would add a definition of the term ''detain or confine'' that clarifies that the term includes non-secure detention—that is, a juvenile is detained when he is not free to leave, even though he is not securely detained within a locked room or cell, or by being handcuffed to a cuffing rail or bench. Under the current regulation, OJJDP has equated ''being 'detained' or 'confined' '' with ''being in 'secure custody' ''; *i.e.,* that ''detention'' (or ''confinement'') occurs *whenever* a juvenile is in ''secure custody,'' as that term is discussed in the current regulation at 28 CFR 31.303(d)(1)(i)—and *only* when in such ''secure custody.'' Under that guidance, a juvenile who merely entered a building with a secure perimeter pursuant to public authority would be, thereby, in ''secure custody'' and therefore ''detained or confined,'' regardless of whether he was free to leave (and even if he *knew* he was free to leave); conversely, however, a juvenile whose hands were handcuffed behind his back by the police, who was told by police officers that he was not free to leave their presence, and who was physically prevented from leaving their presence by armed guards would be, according to OJJDP guidance, not ''detained or confined'' because he is not in what OJJDP has defined as ''secure custody.''

Within the contemplation of the law, however, in the ordinary course, the plain meaning of ''detain'' requires, at a minimum, that the person allegedly detained not be free to leave. Fourth Amendment jurisprudence, which equates detention with the ''seizure'' of a person by a government or its agents, supports this understanding of the term. Generally speaking, a person is detained, or ''seized'' within the meaning of the Fourth Amendment, if, by means of physical force or show of authority, in view of all the circumstances surrounding the incident, a reasonable person would believe that he was not free to leave; conversely, if, in view of all the circumstances surrounding the incident, a reasonable person would believe that he *is* free to leave, he is not being detained. *U.S.* v. *Mendenhall,* 446 U.S. 544, 554–555 (1980). For this reason, the proposed rule would clarify that a juvenile is detained or confined when he is not free to leave, regardless of whether he is held securely or non-securely.

The proposed definition of ''detain or confine'' includes a rebuttable presumption that a juvenile is not detained or confined when his parent or legal guardian acknowledges in writing that he is free to leave. This does not create a requirement that such acknowledgment be in writing, but rather creates a presumption that the juvenile knew that he was free to leave, which may also be demonstrated in other ways, such as through a video recording of the juvenile's acknowledgment that he knows that he is free to leave.

The proposed rule also would add a definition of ''placed or placement'' such that that occurs only when a status offender or a non-offender who is an alien or is alleged to be dependent, neglected, or abused, is detained or confined for a period of 24 hours or longer in a secure juvenile detention or correctional facility or for any length of time in a secure adult detention or correctional facility, as outlined in the proposed definition in section 31.2 of the proposed rule.

Proposed Deletion of Text Repetitive of Statutory Provisions

OJP notes that the proposed rule is drafted to be read *in conjunction* with the rules and definitions in the applicable sections of the JJDPA (42 U.S.C. 5601, *et seq.*). Thus, where the existing regulation contains extended repetition of JJDPA statutory language, the proposed rule would omit that statutory language, except where needed for context and ease of use. For example, the proposed rule would delete the following sections of the current regulation: Section 31.100 (Eligibility) (repetitive of text found at 42 U.S.C. 5603(7)); section 31.101 (Designation of State agency) (describes requirements at 42 U.S.C. 5633(a)(1) and (2)); section 31.301 (Funding) (describes the funding allocation at 42 U.S.C. 5632(a)); section 31.302 (Applicant state agency) (describes requirements at 42 U.S.C. 5633(a)(1) and (2)); section 31.303(a) (Assurances) (see 42 U.S.C. 5633, generally); section 31.303(c)(1) (describes DSO requirements found at 42 U.S.C. 5633(a)(11)); section 31.303(c)(5) (describes a requirement of the state plan found at 42 U.S.C. 5633(a)(12)); section 31.303(e)(1) (describes a requirement of the state plan required under the jail removal requirement at 42 U.S.C. 5633(a)(13)); section 31.303(e)(3) (provides a definition for the term ''collocated facilities'' which is defined in the Act at 42 U.S.C. 5603(28); section

31.303(f)(iii)(3) (Valid court order) (provides a definition for the term ''valid court order'' (VCO) which is defined in the Act at 42 U.S.C. 5603(16)); section 31.303(g) (Juvenile crime analysis) (repeats a requirement found at 42 U.S.C. 5633(a)(7)); section 31.404 (Participation by faith-based organizations) (states a requirement described in 28 CFR part 38); and section 31.102 (State agency structure) (addresses a provision regarding the state agency that is addressed in the Act at 42 U.S.C. 5633(a)(1) and (2) and 42 U.S.C. 5633(b)).

Section 31.303(f)(5) (Reporting requirement) would also be removed, as it restates the requirement found at 42 U.S.C. 5633(a)(14) that states report annually on the status of their compliance with the core requirements. The language in section 31.303(f)(5) of the current regulation that specifies the reporting period would now be included in section 31.8 of the proposed rule. The remaining text, detailing the specific data that must be included in the report, is proposed to be deleted as it is included in OJP's data collection tool that states have already been using. The tool will be submitted to OMB for review and approval and will be published for notice and comment in the **Federal Register**.

OJP solicits public comment on whether the regulatory provisions of part 31 will be sufficiently clear to readers as proposed, or whether it may be helpful to assist readers by inserting some additional cross-references that cite to (but do not duplicate) the relevant statutory provisions.

Proposed Deletion of Federal Wards Provision

OJJDP published a notice in the **Federal Register** on January 9, 1981,[2] explaining that if a state's DSO rate was above 29.4 per 100,000 juveniles in the state's population, OJJDP would consider a request from the state that ''exceptional circumstances'' existed that would justify the state being allowed to deduct any violations that resulted from the detention of federal wards. According to the **Federal Register** notice—

> The following will be recognized for consideration as exceptional circumstances: . . . Federal wards held under Federal statutory authority in a secure State or local detention facility [1] for the sole purpose of affecting a jurisdictional transfer, [2] appearance as a material witness, or [3] for return to their lawful residence or country of citizenship . . .

OJJDP has understood the first category (juveniles detained for the sole purpose of affecting a jurisdictional transfer) to include juveniles who may be status offenders or non-offenders who are alleged to be dependent, neglected, or abused, and thus would be covered by the DSO requirement. OJJDP has understood the second category (juveniles detained pending an appearance as a material witness) to include juveniles who are neither status offenders nor non-offenders who are alleged to be dependent, neglected, or abused. As such, none of the juveniles in this second category would, in fact, be covered by the DSO requirement.

Finally, the third category (juveniles detained pending return to their lawful residence or country of citizenship, *i.e.,* aliens) includes juveniles *explicitly* covered by the DSO requirement, which prohibits placement in secure correctional facilities or secure detention facilities of aliens who are non-offenders.

With respect to immigration detainees in DHS custody, as noted above, the DSO requirement provides that *status offenders* and *non-offenders who are aliens* shall not be ''placed'' in secure correctional or secure detention facilities. To the extent that juvenile immigrant detainees are status offenders or non-offenders, the DSO requirement expressly applies to them, and the placement of those juveniles in a state's secure correctional or secure detention facilities would constitute violations of the DSO requirement.

With the elimination of the federal ward provision, states would be required to report the secure placement of undocumented juvenile immigrants who are status offenders or non-offenders in state or local facilities pursuant to federal authority. The elimination of the policy on federal wards may affect a very small number of states that have a DSO rate above 29.4 that, because they could no longer deduct the ''federal wards'' from their DSO rate, would be found out of compliance. Based on states' 2013 data, no state had a DSO rate above 29.4 such that it was able to make use of the federal ward provision.

For all of the above reasons, OJP is proposing to delete the provision regarding federal wards in the proposed rule.

Proposed Deletion of Provisions Rendered Obsolete by the 2002 JJDPA Reauthorization

The proposed rule would delete provisions of the current regulation that are rendered obsolete following the 2002 reauthorization of the JJDPA. These include sections 31.303(f)(6)(C) and (D), which, under the JJDPA of 1974, addressed waivers related to states' funding for FY 1993 and prior years, and which are no longer applicable.

Proposed Deletion of Requirements Not Specific to the Formula Grant Program

The proposed rule would delete sections of the current regulation that contain requirements applicable to all OJP grantees, including section 31.201 (Audit), which repeats requirements found in the OJP Financial Guide; section 31.202 (Civil Rights), which repeats requirements found in 28 CFR 42.201, and 42.301, *et seq.;* and section 31.401 (Compliance with other Federal laws, orders, circulars) which references, generally, ''other applicable Federal laws, orders and OMB circulars'' (*e.g.* the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, found at 2 CFR part 200). These sections are unnecessary because in accepting a Formula Grant Program award, states explicitly agree to comply with ''all applicable Federal statutes, regulations, policies, guidelines, and requirements.'' In addition, special conditions included on all Formula Grant Program awards specifically require that states agree to comply with 2 CFR part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; the Equal Employment Opportunity Plan required under 28 CFR 42.302; as well as OJP's Financial Guide.

Proposed Deletion of Provisions That Describe Recommendations Rather Than Requirements

The proposed rule would delete sections of the current regulation that do not contain requirements that states must meet in order to be in compliance with the Formula Grant Program requirements and that provide information that would be more appropriate for inclusion in policy guidance provided to states. These include section 31.303(b) of the current regulation, ''Serious juvenile offender emphasis,'' which encourages, but does not require, states to allocate funds a certain way; and section 31.303(d)(1)(v), which provides examples of what's allowed and not allowed under the separation requirement. OJP policy documents will include recommendations, discussions of best practices, and illustrative examples of what scenarios might or might not

[2] See *Policy and Criteria for de Minimis Exceptions to Full Compliance With Deinstitutionalization Requirement of Juvenile Justice and Delinquency Prevention Act,* 46 FR 2566.

constitute compliance with Formula Grant Program requirements.

Proposed Deletion of Provisions That Are Unnecessary or Duplicative of the Formula Grant Program Solicitation

The proposed rule would delete as unnecessary the text in section 31.2 of the current regulation acknowledging the establishment of the Office of Juvenile Justice and Delinquency Prevention; and section 31.203, which requires states to follow their own open meeting and public access laws and regulations.

The proposed rule would delete section 31.3 of the current regulation (''Formula grant plan and applications''), which requires that Formula Grant Program applications be submitted by August 1st or within 60 days after states are notified of their formula grant allocations. The unpredictable timing of OJP's appropriations requires that OJP have flexibility in setting the deadline for Formula Grant Program applications.

Finally, section 31.303(i) of the current regulation (''Technical assistance''), references a requirement stated in the Formula Grant Program solicitation, and that need not be repeated in the regulation, that states describe in their state plan their technical assistance needs.

V. Regulatory Certifications

Regulatory Flexibility Act

In accordance with the principles of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Office of Justice Programs has reviewed this regulation and, by approving it, certifies that it will not have a significant economic impact on a substantial number of small entities, as the rule regulates only states and territories, which are the recipients of funding under the Formula Grant Program authorized at 42 U.S.C. 5631. This proposed rule updates the implementing regulation for the Formula Grant Program, including the requirements that states and territories must meet in order to receive funding, and among other things, provides a clearer basis for determining state and territory compliance with the applicable statutory standards. Although states are required to subaward 66 2/3 percent of their formula grant funds to local governments and local private agencies, whether a particular local entity receives a subaward is solely within the discretion of the state and is unaffected by this proposed rule. As noted above, this rule does not regulate small entities and does nothing to create or increase the financial burden on small entities.

This regulation, therefore, will not have a significant economic impact on a substantial number of small entities.

Executive Orders 12866 and 13563—Regulatory Review

This regulation has been drafted and reviewed in accordance with Executive Order 12866, ''Regulatory Planning and Review'' section 1(b), Principles of Regulation, and in accordance with Executive Order 13563 ''Improving Regulation and Regulatory Review'' section 1(b), General Principles of Regulation. The proposed rule is necessary for the implementation of the Formula Grant Program, as required in the Act at 42 U.S.C. 5632(1); 42 U.S.C. 5632(d); and 42 U.S.C. 5633(a).

The Office of Justice Programs has determined that this rule is a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and accordingly this rule has been reviewed by the Office of Management and Budget. For a discussion of the impact of the proposed rule on states and other entities, including the costs and benefits, and the number of states that might be out of compliance (and the corresponding dollar amounts affected) under the proposed rule, please see further discussion below in this section of the preamble.

Executive Order 13563 directs agencies to propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs; tailor the regulation to impose the least burden on society, consistent with obtaining the regulatory objectives; and, in choosing among alternative regulatory approaches, select those approaches that maximize net benefits.

This proposed rule is necessary to update the implementing regulation for the Formula Grant Program authorized under Title II, Part B, of the JJDPA, to conform with the amendments to the Act following the 2002 reauthorization, and thus there are no alternatives to this direct regulation. OJP considered other approaches to the specific requirements included in this proposed regulation and determined that the proposed requirements most effectively implement the provisions of the JJDPA. OJP welcomes comments from the public on any provisions of the proposed rule, as well as suggestions for alternative approaches to those provisions.

Deleting provisions of the current regulation that are recommended practices, rather than Formula Grant Program requirements that state must meet, would streamline and simplify the rule, making the requirements more easily accessible. OJJDP's recommended practices for states regarding treatment of juveniles in the juvenile justice system can be found in policy documents on OJJDP's Web site at *http://www.ojjdp.gov/compliance/index.html*.

As noted above, it is difficult to quantify the financial cost that states will incur should the proposed regulation be promulgated as drafted. Some of the proposed provisions would require states to dedicate additional time and resources to collecting, verifying, and reporting additional compliance monitoring data. In addition, the proposed new compliance standards may result in more states being found out of compliance than would be out of compliance under the current standards. OJP discusses below some of the estimated costs to states of the proposed rule.

For example, the proposed requirement that states must report compliance monitoring data from 100% of facilities that are required to report would require that state staff spend more time collecting information from those facilities not immediately responsive to data requests. In addition, the proposed definition of ''detain or confine'' in section 31.2 would require that states report data for any juveniles held such that they were not free to leave, whether securely or non-securely, in adult jails or lockups and in any institutions in which the juveniles have contact with adult inmates. This data set would include some holds that were not reportable under the current regulation and, as a result, may necessitate a reassessment and modification of state monitoring practices.

Under the proposed new standards for determining compliance in section 31.9, more states would likely be found out of compliance with one or more of the core requirements than would be found out of compliance under the current *de minimis* standards. Because states' formula grant funding is reduced by 20% for each of the core requirements with which a state is determined to be out of compliance, pursuant to 42 U.S.C. 5633(c), the new compliance standards would likely result in more states receiving reduced formula grant awards than would under the current compliance standards.

Under the current regulation, using states' calendar year (CY) 2013 data, OJJDP determined two states to be out of compliance with the DSO requirement. Using that same CY 2013 data, under the proposed new DSO compliance standard, a total of forty-three states would be determined to be out of compliance, resulting in a

collective reduction in funding in the amount of $6,826,126. Under the current compliance standard for the separation requirement, based on CY 2013 data, OJJDP found three states out of compliance. Using that same data, eight states would be determined to be out of compliance under the proposed standard, resulting in a collective reduction in funding in the amount of $1,292,217. Finally, based on states' CY 2013 data, OJJDP determined four states to be out of compliance with the jail removal requirement. Using that same data, a total of forty-one states would be determined to be out of compliance under the proposed compliance standard for the jail removal requirement, resulting in a collective reduction in the amount of $6,574,336. Thus, based on compliance figures for CY 2013, the total amount of funds by which non-compliant states' formula grant funding would have been reduced is $14,692,679 if the new standards had been in effect. Of course, because the proposed new standards would be in effect only in future years, the actual effect of the new standards is dependent on the states' future levels of compliance.

When states' formula grant funding is reduced for non-compliance with any of the core requirements, those funds are made available to states that have achieved full compliance with the core requirements. This potential additional funding provides an incentive for compliant states to remain in compliance.

The proposed rule would not make substantive changes to how states address DMC, as they would continue to follow the 5-phase reduction model.

Any burden on the states created by the revised standards for determining compliance is outweighed by the considerable benefit provided to juveniles by greater adherence to the statutory provisions of the Formula Grant Program to ensure that juveniles are afforded the protections provided by the core requirements. Through the implementation of this proposed rule, OJJDP will ensure closer adherence to the requirements of the Formula Grant Program, particularly with respect to the application of the four core requirements (DSO, separation, jail removal, and DMC), compliance with which determines whether states receive their full formula grant allocation. By establishing numerical standards for determining compliance with the DSO, separation, and jail removal requirements, and with the utilization of a new DMC assessment tool, OJJDP's process for determining compliance with each of the four core requirements will be more transparent and objective.

This proposed rule will ensure improved enforcement of the core requirements, which will benefit youth within the juvenile justice system by ensuring that: (1) Status offenders are not placed in secure detention or secure correctional facilities; (2) juveniles are not detained such that they have sight or sound contact with adult inmates; (3) juveniles are not detained in jails and lockups for adults; and (4) states are appropriately addressing the problem of disproportionate minority contact, where it exists.

The enhanced enforcement of the core requirements will result in a reduced risk of youth becoming further involved in the juvenile justice system, and of their subsequent involvement in the criminal justice system.

Executive Order 13132—Federalism

This proposed rule will not have a substantial direct effect on the relationship between the national government and the states, on distribution of power and responsibilities among the various levels of government or on states' policymaking discretion. This proposed rule updates the implementing regulation for the Formula Grant Program, including the requirements that states and territories must meet in order to receive funding, and among other things, provides a clearer basis for determining state and territory compliance with the applicable statutory standards. States that participate in the Formula Grant Program do so voluntarily, and as a condition of receiving formula grant funding agree to comply with the relevant statutory requirements. The rule, itself, does not create any obligation on the part of states. Therefore, in accordance with Executive Order No. 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12988—Civil Justice Reform

This rule meets the applicable standards set forth in §§ 3(a) & (b)(2) of Executive Order No. 12988. Pursuant to § 3(b)(1)(I) of the Executive Order, nothing in this or any previous rule (or in any administrative policy, directive, ruling, notice, guideline, guidance, or writing) directly relating to the Formula Grant Program is intended to create any legal or procedural rights enforceable against the United States, except as the same may be contained within subpart B of part 94 of title 28 of the Code of Federal Regulations.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by state, local and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. The Formula Grant Program provides funds to states to assist them in planning, establishing, operating, coordinating, and evaluating projects directly or through grants and contracts with public and private agencies for the development of more effective education, training, research, prevention, diversion, treatment, and rehabilitation programs in the area of juvenile delinquency and programs to improve the juvenile justice system. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

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

Paperwork Reduction Act

This proposed rule includes requirements for the collection and reporting of additional compliance monitoring data beyond that required in the current regulation to fulfill the statutory requirement for states in 42 U.S.C. 5633(14). Accordingly, OJP is submitting its data collection of information for approval to OMB as required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*) and its implementing regulations at 5 CFR part 1320.

List of Subjects in 28 CFR Part 31

Administrative practice and procedure, juvenile delinquency prevention, juvenile justice, Formula Grant Program, Juvenile Justice and Delinquency Prevention Act (JJDPA).

Accordingly, for the reasons set forth in the preamble, part 31 of chapter I of Title 28 of the Code of Federal

Regulations is proposed to be amended as follows:

■ 1. The authority citation for part 31, subpart A continues to read as follows:

Authority: 42 U.S.C. 5611(b); 42 U.S.C. 5631.

■ 2. Subpart A is revised to read as follows:

Subpart A—Formula Grants

General Provisions

31.1 Scope of subpart.
31.2 Definitions.
31.3 Terms: Construction, severability; effect.
31.4 Prohibited discrimination.
31.5 Formula allocation.
31.6 State plan requirements.
31.7 Core requirement monitoring.
31.8 Core requirement reporting.
31.9 Core requirement compliance determinations.

General Provisions

§ 31.1 Scope of subpart.

This subpart implements the Formula Grant Program authorized by Part B of Title II of the Juvenile Justice and Delinquency Prevention Act (the ''Act'').

§ 31.2 Definitions.

The following definitions are applicable to this subpart A, in addition to the definitions and provisions set forth in the Act.

Administrator means the Administrator of the Office of Juvenile Justice and Delinquency Prevention.

Alien, as used in the Act, at 42 U.S.C. 5633(a)(11)(B)(ii)(I), has the meaning as defined at 8 U.S.C. 1101 which, at the time of promulgation of this subpart, means any person not a citizen or national of the United States.

Annual performance report means the report required to be submitted pursuant to the Act, at 42 U.S.C. 5633(a).

Assessment, as used in the Act, at 42 U.S.C. 5633(a)(23)(C)(i), means an evaluation by an authorized representative that includes—

(1) A description of a juvenile's behavior as well as the circumstances under which the juvenile was brought before the court;

(2) Assessment of the appropriateness of available placement alternatives, including, without limitation, community-based placement options and secure confinement; and

(3) Elaboration of any factors not included in paragraph (1) or (2) of this definition that may bear significantly on a determination of where to place the juvenile.

Authorized representative, as used in the Act, at 42 U.S.C. 5633(a)(23), means a child welfare professional employed or retained by an appropriate state or local public agency to make the assessment required under the Act, at 42 U.S.C. 5633(a)(23)(C)(i).

Compliance Monitoring Report means a report required under the Act, at 42 U.S.C. 5633(a)(14), that contains information necessary to determine compliance with the core requirements as one component of the annual performance report.

Construction fixtures, as used in the Act, at 42 U.S.C. 5603(12) and (13), means any fittings or appurtenances that are securely and permanently attached to a building.

Contact between juveniles and adult inmates means any physical contact, or any sustained sight or sound contact, between juvenile offenders in a secure custody status (on the one hand) and incarcerated adults (on the other), including inmate trustees. Sound contact means direct oral communication. Sight contact means clear visibility within close proximity. Sustained contact does not include contact that is brief and inadvertent.

Convicted means having been found guilty (or having pleaded guilty, no contest, or *nolo contendere*), and on that basis being or remaining detained or confined in a law enforcement facility.

Core requirements means the requirements specified in the Act, at 42 U.S.C. 5633(a)(11), (12), (13), and (22) (respectively, the deinstitutionalization of status offenders (DSO), separation, jail removal, and disproportionate minority contact (DMC) requirements), as defined in this section.

Designated state agency means the state agency responsible for the administration of the program regulated by this subpart.

Detain or confine means to hold, keep, or restrain a person such that a reasonable person would believe that he is not free to leave.

DMC Requirements means the requirements related to the disproportionate number of juvenile members of minority groups who come into contact with the juvenile justice system, as referred to in the Act, at 42 U.S.C. 5633(a)(22).

DSO Requirements means the requirements related to the deinstitutionalization of status offenders and others, as set forth in the Act, at 42 U.S.C. 5633(a)(11).

Extended juvenile court jurisdiction means the jurisdiction a juvenile court may have over an individual who has reached the age of full criminal responsibility under applicable state law but nonetheless remains in the physical custody of state juvenile detention, correctional, or other facilities, under such law.

Full due process rights guaranteed to a status offender by the Constitution of the United States, as used in the Act, at 42 U.S.C. 5603(16), means such rights, as specified pursuant to rulings of the U.S. Supreme Court.

Jail removal requirements means the requirements relating to detention or confinement of juveniles, as set forth in the Act, at 42 U.S.C. 5633(a)(13).

Juvenile means an individual who is subject to a state's ordinary juvenile court jurisdiction or remains under the state's extended juvenile court jurisdiction.

Juveniles alleged to be or found to be delinquent, as used in the Act, at 42 U.S.C. 5633(a)(12), means juveniles who have been charged with, or have been adjudicated as delinquent for having committed, an offense other than a status offense.

Juveniles who are accused of nonstatus offenses, as used in the Act, at 42 U.S.C. 5633(a)(13), means juveniles who have been charged with an offense other than a status offense.

Minority groups means populations in the following categories, as defined (at the time of promulgation of this subpart) by the U.S. Census Bureau: American Indian or Alaska Native, Asian, Black or African American, Hispanic or Latino, and Native Hawaiian or Other Pacific Islander.

Monitoring universe means all facilities within a state in which adult inmates are detained or confined, or in which juveniles might be detained or confined, including facilities owned or operated by public or private agencies.

Non-secure facility, as used in the Act, at 42 U.S.C. 5633(a)(14), means a facility that does not have construction fixtures or the capability to securely detain individuals; *e.g.,* locked cells or rooms that may be locked from the outside such that a person may be securely confined therein, cuffing benches, rails, or bolts, or other construction fixtures which could be used to physically restrict the movement of individuals.

Placed or placement refers to what has occurred when a juvenile charged with a status offense, or a juvenile non-offender who is an alien or is dependent, neglected, or abused —

(1) Is detained or confined in a secure correctional facility for juveniles or a secure detention facility for juveniles—

(i) For 24 hours or more before an initial court appearance;

(ii) For 24 hours or more following an initial court appearance; or

(iii) For 24 hours or more for investigative purposes, or identification;

(2) Is detained or confined in a secure correctional facility for adults or a secure detention facility for adults; or

(3) With respect to any situations not described in paragraph (1) or (2) of this definition, is detained or confined pursuant to a formal custodial arrangement ordered by a court or other entity authorized by state law to make such an arrangement.

Public holidays means all official federal, state, or local holidays on which the courts in a jurisdiction are closed.

Residential, as used in the Act, at 42 U.S.C. 5603(12) and (13), means designed or used to detain or confine individuals overnight.

Responsible Agency Official, as used in—

(1) Section 18.5(a) of this title, means the Administrator; and

(2) Section 18.5(e) of this title, means the Assistant Attorney General, Office of Justice Programs, whose decision on appeal shall be the final agency decision referred to in 28 CFR 18.9.

Separation requirements means the requirements related to contact between juveniles and adult inmates, as set forth in the Act, at 42 U.S.C. 5633(a)(12).

Status offender means an individual who has been charged with or who has committed a status offense.

Status offense means an offense that would not be criminal if committed by an adult.

Twenty-four hours means a consecutive 24-hour period, exclusive of any hours on Saturdays, Sundays, public holidays, or days on which the courts in a jurisdiction otherwise are closed.

§ 31.3 Terms; construction, severability; effect.

(a) Terms. In determining the meaning of any provision of this subpart, unless the context should indicate otherwise, the first three provisions of 1 U.S.C. 1 (rules of construction) shall apply.

(b) Construction, severability. Any provision of this subpart held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as to give it the maximum effect permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event such provision shall be deemed severable herefrom and shall not affect the remainder hereof or the application of such provision to other states not similarly situated or to other, dissimilar circumstances.

(c) The regulations in this subpart are applicable October 7, 2016, except that the compliance standards set forth in § 31.9 will be applicable beginning in the first compliance reporting period following the promulgation of this rule in final form.

§ 31.4 Prohibited discrimination.

(a) The non-discrimination provision specified at 42 U.S.C. 3789d(c), and incorporated into the Act at 42 U.S.C. 5672(b), shall be implemented in accordance with 28 CFR part 42.

(b) In complying with the non-discrimination provision at 42 U.S.C. 3789d(c), as implemented by 28 CFR part 42, the designated state agencies and sub-recipients shall comply with such guidance as may be issued from time to time by the Office for Civil Rights within the Office of Justice Programs.

§ 31.5 Formula allocation.

The relative population of individuals under age eighteen, as used to determine a state's annual allocation for grants administered under this subpart, pursuant to 42 U.S.C. 5632(a), shall be determined according to the most recent data available from the U.S. Census Bureau.

§ 31.6 State Plan requirements.

As part of what is required pursuant to the Act, at 42 U.S.C. 5633(a), and pursuant to this subpart, each state shall, in its State Plan—

(1) Describe any barriers actually or potentially faced by the state in achieving compliance with each of the four core requirements.

(2) Describe policies and procedures in effect for receiving, investigating, and reporting complaints involving activity that would result in instances of non-compliance with any of the four core requirements.

§ 31.7 Core requirement monitoring.

No state shall be understood to have an adequate system of monitoring pursuant to the Act, at 42 U.S.C. 5633(a)(14), unless the following are included within its State Plan:

(a) Identification of each facility within the monitoring universe;

(b) Classification of each facility within the monitoring universe, including—

(1) By type of facility (*e.g.,* juvenile detention or correctional facility, adult correctional institution, and jail or lockup for adults);

(2) By indication of whether the facility is public or private, and residential or nonresidential; and

(3) By indication of whether the facility's purpose is to detain or confine juveniles only, adults only, or both juveniles and adults;

(c) Indication that the state has conducted (and will continue to conduct) an on-site inspection of each facility within the monitoring universe at least once every 3 federal fiscal years—

(1) To ensure an accurate classification of each facility;

(2) To ensure accurate recordkeeping by each facility, including verification of self-reported data provided by a facility;

(3) To determine whether the data relating to each facility are valid and maintained in a manner that allows a state to determine compliance with the DSO, jail removal, and separation requirements; and

(4) To determine (as applicable) whether adequate sight and sound separation between juveniles and adult inmates exists.

(d) With respect to facilities within the monitoring universe that have been classified such that they are required to report annual compliance data (*e.g.,* juvenile detention or correctional facilities, adult correctional institutions, and jails or lockups for adults)—

(1) A report, covering the applicable full federal fiscal year, of the instances of non-compliance with the DSO, separation, and jail removal requirements within—(A) 100% of such facilities; or (B) Not less than 90% of such facilities, coupled with the submission of data from the remaining non-reporting facilities, within 60 days of the original submission deadline, except that states may request that the Administrator grant a waiver, for good cause, of the provision that 100% of facilities report; and

(2) Where such data are self-reported by facility personnel or are collected and reported by an agency other than the designated state agency—

(i) A description of a statistically-valid procedure used to verify such data; and

(ii) An indication that the designated state agency verified such data through onsite review of each facility's admissions records and booking logs;

(e) Certification that the state has policies and procedures in place governing the implementation and maintenance of an adequate system of monitoring, and, where the state has different definitions for juvenile and criminal justice terms than those provided in the Act and this subpart, a precise description of those differences and a certification that the definitions in the Act and this subpart have been used in the monitoring process and in the State Plan;

(f) Description of the authority or arrangement under which the designated state agency enters facilities to inspect and collect data from all

facilities within the monitoring universe classified such that they are required to report annual compliance data.

(g) A timetable specifically detailing when and in which facilities compliance monitoring will occur;

(h) Description of procedures for receiving, investigating, and reporting complaints of instances of non-compliance with the DSO, jail removal, and separation requirements; and

(i) Description of any barriers faced in implementing and maintaining a system adequate to monitor the level of compliance with the DSO, jail removal, and separation requirements, including (as applicable) an indication of how it plans to overcome such barriers.

§ 31.8 Core requirement reporting.

(a) Time period covered. The compliance monitoring report shall contain data for one full federal fiscal year (*i.e.,* October 1st through the following September 30th).

(b) Deadline for submitting compliance data. The compliance monitoring report shall be submitted no later than January 31st immediately following the fiscal year covered by the data contained in the report.

(c) Certification. The information contained in a state's compliance monitoring report, shall be certified in writing by a designated state official authorized to make such certification, which certification shall specify that the information in the report is correct and complete to the best of the official's knowledge and that the official understands that a false or incomplete submission may be grounds for prosecution, including under 18 U.S.C. 1001 and 1621.

§ 31.9 Core requirement compliance determinations.

(a) *Compliance with the DSO requirement.* A state is in compliance with the DSO requirement for a federal fiscal year when it has a rate of compliance at or below 0.24 per 100,000 juvenile population in that year.

(b) *Compliance with the separation requirement.* A state is in compliance with the separation requirement for a federal fiscal year when it has zero instances of non-compliance in that year.

(c) *Compliance with the jail removal requirement.* A state is in compliance with the jail removal requirement for a federal fiscal year when it has a rate of compliance at or below 0.12 per 100,000 juvenile population in that year.

(d) *Compliance with the DMC requirement.* A state is in compliance with the DMC requirement when it includes a DMC report within its State Plan, which report contains the following:

(1) A detailed description of adequate progress in implementing the following 5-phase DMC reduction model:

(i) Identification of the extent to which DMC exists, via the Relative Rate Index (a measurement tool to describe the extent to which minority youth are overrepresented at various stages of the juvenile justice system), which must be done both statewide and for at least three local jurisdictions (approved by the Administrator) with the highest minority concentration or with focused-DMC-reduction efforts, and at the following contact points in the juvenile justice system: Arrest, diversion, referral to juvenile court, charges filed, placement in secure correctional facilities, placement in secure detention facilities, adjudication as delinquent, community supervision, and transfer to adult court;

(ii) Assessment and comprehensive analysis (which must be completed within 12 months of identification of the existence of DMC, or such longer period as may be approved by the Administrator) to determine the significant factors contributing to DMC identified pursuant to paragraph (d)(1)(i) of this section, at each contact point where it exists. Such assessment and comprehensive analysis shall be conducted—

(A) When DMC is found to exist within a jurisdiction at any of the contact points listed in paragraph (d)(1)(i) of this section, and not less than once in every five years thereafter;

(B) When significant changes in the Relative Rate Index are identified during the state's monitoring of DMC trends; or

(C) When significant changes in juvenile justice system laws, procedures, and policies result in statistically-significant increased rates of DMC;

(iii) Intervention, through delinquency prevention and systems-improvement strategies to reduce DMC that have been assessed under paragraph (d)(1)(ii), based on the results of the identification data and assessment findings, which strategies target communities where there is the greatest magnitude of DMC throughout the juvenile justice system and include, at a minimum, specific goals, measurable objectives, and selected performance measures;

(iv) Evaluation (within three to five years of the DMC-related intervention under paragraph (d)(1)(iii)) of the effectiveness of the delinquency prevention and systems-improvement strategies, using appropriate formal, methodological evaluative instruments, including the appropriate Performance Measures for the Data Collection and Technical Assistance Tool (DCTAT), located on OJJDP's Web site, which will assist in gauging short and long-term progress toward reducing DMC; and

(v) Monitoring to track changes in DMC statewide and in the local jurisdictions under paragraph (d)(1)(i) of this section, in order to identify emerging issues affecting DMC and to determine whether there has been progress towards DMC reduction where it has been found to exist, to include the making of comparisons between current data and data obtained in earlier years and (when quantifiable data are unavailable to determine whether or to what extent the Relative Rate Index has changed) the provision of a timetable for implementing a data collection system to track progress towards reduction of such DMC; and

(2) Where DMC has been found to exist—

(i) A description of the prior-year's progress toward reducing DMC; and

(ii) An adequate DMC-reduction implementation plan (including a budget detailing financial and/or other resources dedicated to reducing DMC).

Dated: July 27, 2016.

Karol V. Mason,

Assistant Attorney General.

[FR Doc. 2016–18371 Filed 8–5–16; 8:45 am]

BILLING CODE 4410–18–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2016–0424; FRL–9950–38–Region 8]

Approval and Promulgation of Air Quality Implementation Plans; South Dakota; Revisions to the Permitting Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of South Dakota on October 23, 2015 and July 29, 2013 related to South Dakota's Air Pollution Control Program. The October 23, 2015 submittal revises certain definitions and dates of incorporation by reference and contains new, amended and renumbered rules. In this rulemaking, we are taking final action on all portions of the October 23, 2015 submittal, except for those

portions of the submittal which do not belong in the SIP. This action is being taken under section 110 of the Clean Air Act (CAA).

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

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2016–0424, at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.,) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Kevin Leone, Air Program, U.S. Environmental Protection Agency (EPA), Region 8, Mail Code 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6227, *leone.kevin@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

What should I consider as I prepare my comments for the EPA?

1. *Submitting Confidential Business Information (CBI).* Do not submit CBI to the EPA through *http://www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD ROM that you mail to the EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register**, date, and page number);
- Follow directions and organize your comments;
- Explain why you agree or disagree;
- Suggest alternatives and substitute language for your requested changes;
- Describe any assumptions and provide any technical information and/or data that you used;
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced;
- Provide specific examples to illustrate your concerns, and suggest alternatives;
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats; and
- Make sure to submit your comments by the comment period deadline identified.

II. Background

July 29, 2013 Submittal

On July 29, 2013, the State of South Dakota submitted a SIP revision containing amendments 74:36:10:06 (Causing or contributing to a violation of any national ambient air quality standard). This revision added significant impact levels (SILs) for particulate matter less than 2.5 microns ($PM_{2.5}$) as required in the EPA's October 20, 2010, $PM_{2.5}$ ''Increment Rule.'' However, on January 22, 2013, the United States Court of Appeals for the District of Columbia Circuit vacated the SILs for $PM_{2.5.}$ On December 9, 2013, the EPA issued a final rule that removes the $PM_{2.5}$ SILs from the EPA's PSD regulations (78 FR 73698). As a result of this court decision and the EPA's rulemaking, in the October 23, 2015, submittal, South Dakota removed the SILs for $PM_{2.5}$ from section 74:36:10:06. This action effectively supersedes the July 29, 2013 action for 74:36:10:06.

October 23, 2015 Submittal

A. Chapter 74:36:01—Definitions

Chapter 74:36:01 defines the terms used throughout Article 74:36—Air Pollution Control Program. There are six definitions in Chapter 74:36:01 that reference federal regulations. The sections in Chapter 74:36:01 that are being updated to the version of the federal reference as of July 1, 2014, involve the following: 74:36:01:01(8), 74:36:01:01(29), 74:36:01:01(67), 74:36:01:01(73), 74:36:01:05, and 74:36:01:20. We will be acting on the revision to 74:36:01:01(73) in a separate rulemaking. This is addressed in more detail under section III of this rulemaking.

South Dakota's October 23, 2015 submittal also added the phrase ''insignificant increase in allowable emissions'' to the definition of ''permit revision'' in section 74:36:01(50) and revised the definition of ''modification'' in section 74:36:01:10 to allow an exception for insignificant increases in allowable emissions. This proposed rulemaking also adds a new definition for ''Insignificant increases in allowable emissions'' in section 74:36:01:10.01. This addition to the definition for ''insignificant increase in allowable emissions'' is to account for all of the new federal standards covering small sources of air pollutants, to streamline the permitting actions for these small sources, and to be consistent with federal permitting requirements. This definition was derived from Table I in 40 CFR 49.153 and is addressed in more detail under section III of this rulemaking.

B. Chapter 74:36:02—Ambient Air Quality

Chapter 74:36:02 established air quality goals and ambient air quality standards for South Dakota. The sections in Chapter 74:36:02 that are being updated to the version of the federal reference as of July 1, 2014, involve the following: 74:36:02:02, 74:36:02:03, 74:36:02:04 and 74:36:02:05.

C. Chapter 74:36:03—Air Quality Episodes

Chapter 74:36:03 identifies the contingency plan the South Dakota Department of Environment and Natural Resources (DENR) will follow during an air pollution emergency episode. The sections in Chapter 74:36:03 that are being updated to the version of the federal reference as of July 1, 2014, involve the following: 74:36:03:01 and 74:36:03:02.

D. Chapter 74:36:04—Operating Sources for Minor Sources

Chapter 74:36:04 is South Dakota's minor source air quality operating permit program. The section in Chapter 74:36:04 that is being updated to the version of the federal reference as of July 1, 2014, involve the following: 74:36:04:04.

Section 74:36:04:03 lists emission units that are exempt from inclusion in

a minor air quality operating permit. Emission units may not be exempted if federally enforceable limits have been included in the permit to avoid other permits. The revisions are being proposed to clarify that any unit that is subject to a federal rule in Chapter 74:36:07—New Source Performance Standards and Chapter 74:36:08—National Emission Standards for Hazardous Air Pollutants may not be exempted from inclusion in the minor air quality operating permit.

A definition for ''insignificant increase in allowable emissions'' is being added to Chapter 74:36:01 to account for all of the new federal standards covering small sources of air pollutants, to stream line the permitting actions for these small sources, and to be consistent with the federal permitting requirements. As such, the revisions are proposing to add section 74:36:04:21.01 which will identify procedures for processing an application for activities that are considered an ''insignificant increase in allowable emissions.'' This process will allow construction projects to move forward if the air pollution increase meets the definition of an ''insignificant increase in allowable emissions.''

E. Chapter 74:36:05—Operating Sources for Part 70 Sources

We are not taking action on revisions to this chapter. Title V permits are not part of the SIP.

F. Chapter 74:36:07—New Source Performance Standards

We are not taking action on revisions to this chapter. New source performance standards (NSPS) are not part of the SIP.

G. Chapter 74:36:08—National Emission Standards for Hazardous Air Pollutants

We are not taking action on revisions to this chapter. National emission standards for hazardous air pollutants (NESHAPs) are not part of the SIP.

H. Chapter 74:36:09—Prevention of Significant Deterioration

Chapter 74:36:09 is South Dakota's PSD preconstruction program for major sources located in areas of the state that attain the federal national ambient air quality standards (NAAQS). The sections in Chapter 74:36:09 that are being updated to the version of the federal reference as of July 1, 2014, involve the following: 74:36:09:02 and 74:36:09:03. This chapter also adds 74:36:09:02(7), 74:36:09:02(8) and 74:36:09:02(9). These provisions remove 40 CFR 52.21(b)(49)(v) and references to 40 CFR 52.21(b)(49)(v) from the SIP.

I. Chapter 74:36:10—New Source Review

Chapter 74:36:10 is South Dakota's New Source Review (NSR) preconstruction permit program for major sources in areas of the state that are not attaining the NAAQS. All of South Dakota is in attainment with the federal standards; therefore, there are no facilities that require a preconstruction permit under this program.

The sections in Chapter 74:36:10 that are being updated to the version of the federal reference as of July 1, 2014, involve the following: 74:36:10:02, 74:36:10:03.01, 74:36:10:05, 74:36:10:07 and 74:36:10:08.

On March 30, 2011, the EPA extended the stay of the ''Fugitive Emissions Rule'' under the new source review program. The extension clarified the stay and revisions of specific paragraphs in the new source review program affected by the ''Fugitive Emissions Rule.'' Changes to 74:36:10:02 are proposed revise South Dakota's SIP to remove these references.

On January 22, 2013, the United States Court of Appeals for the District of Columbia Circuit vacated the significant impact levels for $PM_{2.5}$ in the new source review program. The revisions to 74:36:10:06 reflect this court decision.

J. Chapter 74:36:11—Performance Testing

Chapter 74:36:11 identifies the performance testing requirements used by permitted facilities to demonstrate compliance with permit limits. The sections in Chapter 74:36:11 that are being updated to the version of the federal reference as of July 1, 2014, involve the following: 74:36:11:01.

K. Chapter 74:36:12—Control of Visible Emissions

Chapter 74:36:12 identifies visible emission limits for units that emit air pollution. The sections in Chapter 74:36:12 that are being updated to the version of the federal reference as of July 1, 2014, involve the following: 74:36:12:01 and 74:36:12:03.

L. Chapter 74:36:13—Continuous Emission Monitoring Systems

Continuous Emission Monitoring Systems are part of South Dakota's Title V program and are not part of the SIP.

M. Chapter 74:36:16—Acid Rain Program

The Acid Rain Program is not part of the SIP.

N. Chapter 74:36:18—Regulations for State Facilities in the Rapid City Area

The sections in Chapter 74:36:18 that are being updated to the version of the federal reference as of July 1, 2014, involve the following: 74:36:18:10.

O. Chapter 74:36:20—Construction Permits for New Sources or Modifications

The reference date for the federal regulation is proposed to be updated to the most current version of the federal reference of July 1, 2014. This revision will update any minor inconsistency between South Dakota's SIP and EPA's federal regulations as of July 1, 2014. These proposed changes involve section 74:36:20:05.

South Dakota's October 23, 2015, submittal adds certain pre-permit construction activities and also adds procedures for an ''insignificant increase in allowable emissions.'' These revisions are discussed in more detail in Section III of this rulemaking.

III. What is the EPA proposing to approve?

A. What the EPA Is Not Acting On

1. The EPA is not acting on revisions to 74:36:05 (Operating Permits for Part 70 Sources), 74:36:07 (New Source Performance Standards) and 74:36:08 (National Emission Standards for Hazardous Air Pollutants) and 74:36:16 (Acid Rain) because these sections are not part of the SIP.

2. The EPA will act on revisions to 74:36:01(73) (definition for Subject to Regulation), and 74:36:09:02(10) in a separate rulemaking. These revisions revise the definition of ''Subject to Regulation'' in the SIP. The definition of ''Subject to Regulation'' is located in 40 CFR 51.166(a)(48)(i)–(v) and 40 CFR 52.21(b)(49)(i)–(v).

On June 23, 2014, the U.S. Supreme Court (*Utility Air Regulatory Group (UARG)* v. *EPA*) held that the EPA may not treat greenhouse gases (GHGs) as an air pollutant for the specific purposes of determining whether a source is a major source and thus required to obtain a PSD or title V permit. On April 10, 2015, the D.C. Circuit issued a Coalition Amended Judgement, which reflects the *UARG* v. *EPA* Supreme Court Decision. The EPA issued a final rulemaking addressing the court decision on August 19, 2015 (80 FR 50199).

The Coalition Amended Judgement only specifically ordered that the EPA regulations under review (including 40 CFR 51.166(b)(48)(v) and 52.21(b)(49)(v)) be vacated. In the EPA's final rulemaking titled ''Prevention of Significant Deterioration and Title V

Permitting for Greenhouse Gases: Removal of Certain Vacated Element,'' which was published on August 19, 2015 (80 FR 50199), we state:

> This final action removes from the CFR several provisions of the PSD and title V permitting regulations that were originally promulgated as part of the Tailoring Rule and that the D.C. Circuit specifically identified as vacated in the Coalition Amended Judgement. Because the D.C. Circuit specifically identified the Tailoring Rule Step 2 PSD permitting requirements in 40 CFR 51.166(b)(48)(v) and 52.21(b)(49)(v) and the regulations that require the EPA to consider further phasing-in the GHG permitting requirements at lower GHG emission thresholds in 40 CFR 52.22, 70.12 and 71.13 as vacated, the EPA is taking the ministerial action of removing these provisions from the CFR.

EPA further states:

> The EPA intends to further revise the PSD and title V regulations to fully implement the Coalition Amended Judgement in a separate rulemaking. This future rulemaking will include revisions to additional definitions in the PSD regulations.

We are acting on 74:36:01(73) in a separate rulemaking because South Dakota added the sentence ''Greenhouse gases are not subject to regulation unless a PSD preconstruction permit is issued regulating greenhouse gases in accordance with chapter 74:39:09.'' This sentence is not in compliance with the current definition of ''Subject to Regulation'' in 40 CFR 51.166(b)(48) and 52.21(b)(49). As mentioned previously in this rulemaking, the EPA intends to publish a future rulemaking which will revise additional definitions in the PSD regulations. However, the EPA's rulemaking in 80 FR 50199 only removes 40 CFR 51.166(b)(48)(v).

We are acting on 74:36:09(02)(10) in a separate rulemaking because 74:36:09(02)(10) revises the definition of 40 CFR 52.21(b)(49)(iv)(b). The revision is not in compliance with the current definition of ''Subject to Regulation'' in 40 CFR 51.166(b)(48) and 52.21(b)(49)(iv)(b). Section 52.21(b)(49)(iv)(b) was not addressed in 80 FR 50199.

The EPA intends to act on these revisions after a future EPA rulemaking is published to include revisions to additional definitions in the PSD regulations.

B. What the EPA Is Acting On

The EPA is proposing to approve all revisions as submitted by the State of South Dakota on October 23, 2015, with the exception of the revisions mentioned in section III. A. of this rulemaking. This includes the following revisions:

The Removal of $PM_{2.5}$ SILs

We are proposing to approve the removal of $PM_{2.5}$ SILs from 74:36:10:06.

On January 22, 2013, the U.S. Court of Appeals for the District of Columbia Circuit ruled on a challenge brought by the Sierra Club to the SILs and significant monitoring concentration (SMC) established for $PM_{2.5}$ in the EPA's October 20, 2010 rule for implementing the $PM_{2.5}$ NAAQS. The court found there was no authority for the SMC established for $PM_{2.5}$ and, as a result, vacated the SMC. With respect to the $PM_{2.5}$ SIL, the court vacated and remanded the SIL to the EPA at the agency's request. SILs and SMCs have been important screening tools that have been used to prevent unnecessary PSD permitting delays when the impact of the emission increases are considered de minimis. On December 9, 2013, the EPA issued a final rule that removes the $PM_{2.5}$ SIL from the EPA's PSD regulations. The final rule also sets the SMC in the EPA's PSD regulations at 0 µg/l, thus triggering the preconstruction monitoring requirement for any increase in ambient concentrations of $PM_{2.5}$ from a major project.

Pre-Permit Construction Activities

Chapter 74:36:20 requires an air quality construction permit for new businesses/facilities and existing businesses/facilities that modify their operations that do not meet the requirements for obtaining a preconstruction permit in Chapters 74:36:09 and 74:36:10. DENR submitted Chapter 74:36:20 to the EPA for inclusion in South Dakota's SIP. The EPA approved Chapter 74:36:20 in South Dakota's SIP on June 27, 2014, except for the phrase, ''unless it meets the requirements in section 74:36:20:02.01,'' and all of section 74:36:20:02.01 (79 FR 36419). This section was disapproved because construction was not limited to construction of concrete foundations, below ground plumbing, ductwork, or other infrastructure and/or excavation work prior to the issuance of the construction permit and there was no requirement for the source to receive a completeness determination (or some type of administrative approval) from the reviewing authority prior to construction. In this submittal, Section 74:36:20:02.01 allows small projects to start construction, which is limited to construction of concrete foundations, below ground plumbing, ductwork, or other infrastructure and/or excavation work, after they receive a completeness determination and prior to receiving a construction permit but does not allow them to start operation until the construction permit has been issued. The intention of the language was to allow construction of small sources that would not impact South Dakota's ability to achieve and/or maintain the NAAQS because of South Dakota's relative short construction season due to ground freezing during the winter season or other inclement weather that could potentially and unnecessarily delay the construction project. These changes were made to resolve the issue with the EPA's prior disapproval of section 74:36:20:02.01 in South Dakota's SIP.

South Dakota's proposed language sets specific conditions that must be met prior to a source commencing construction (but before a construction permit has been issued): (1) The owner/operator has submitted a construction permit application; (2) The owner/operator provided five days notice of their intention to initiate construction; (3) The new source or modification to an existing source is not subject to PSD or NSR (it has to be a true minor source); (4) The new source or modification is not subject to case-by-case MACT; (5) The owner/operator is liable for all construction conducted before the permit is issued, and the applicant may not operate any source equipment that may emit any air pollutant prior to receiving a permit; (6) The owner/operator must cease construction if the DENR demonstrates that the construction will interfere with the attainment or maintenance of a NAAQS or increment; and (7) The owner/operator must make any changes to the new source or modification of an existing source that may be imposed in the issued construction permit.

This revision is in compliance with federal requirements, including: (1) CAA section 110(a)(2)(c), which requires states to include a minor NSR program in their SIP to regulate modifications and new construction of stationary sources within the area as necessary to assure the NAAQS are achieved; (2) The regulatory requirements under 40 CFR 51.160, including section 51.160(b), which requires states to have legally enforceable procedures to prevent construction or modification of a source if it would violate any SIP control strategies or interfere with attainment or maintenance of the NAAQS; and (3) the statutory requirements under CAA section 110(l), which provides that the EPA cannot approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA.

Insignificant Increase in Allowable Emissions

On July 1, 2011, the EPA promulgated a federal minor source review program in Indian country (Tribal NSR Rule) (76 FR 38748). The Tribal NSR Rule does not require a construction permit for new sources or modifications to existing sources if emissions are below the minor NSR threshold in Table 1 of 40 CFR 49.153.

In this rulemaking, the EPA established de minimis thresholds at which sources are to be exempt from permitting requirements for each regulated NSR pollutant (see 40 CFR 49.153—Table 1) utilizing an allowable-to-allowable applicability test. The EPA stated in this rulemaking that these threshold levels represent a reasonable balance between environmental protection and economic growth (76 FR 38758). The EPA further recognized in designing the tribal NSR rule, that the overarching requirement is ensuring NAAQS protection (76 FR 38756) as described in CAA section 110(a)(2)(C). In order to determine that the sources below minor NSR permit thresholds in 40 CFR 49.153—Table 1 would be inconsequential to attainment or maintenance of the NAAQS, the EPA performed a national source distribution analysis (see 71 FR 48702). In this analysis, the EPA looked at size distribution of existing sources across the country. Using the National Emissions Inventory (NEI), which includes the most comprehensive inventory of existing U.S. stationary point sources that is available, the EPA determined how many of these sources fall below the proposed minor NSR thresholds (see 71 FR 48702, Table 2). For each pollutant, the EPA found that only around 1 percent (or less) of total emissions would be exempt from review under the minor NSR program. At the same time, the thresholds would promote an effective balance between environmental protection and source burden because anywhere from 42 percent to 76 percent of sources (depending on the pollutant) would be too small to be subject to preconstruction review (76 FR 38758). South Dakota, which contains areas of Indian country that are subject to the permitting thresholds in the tribal NSR rule, has established the same exemption levels as those in the tribal NSR rule. In addition, as the EPA explained in the tribal NSR rule, this will ''allow us to begin leveling the playing field with the surrounding state programs and will result in a more cost-effective program by reducing the burden on sources and reviewing authorities.'' (see 76 FR 38758)

In order to be consistent with the EPA and to streamline the process for insignificant increases in air emissions, DENR is proposing to add ''insignificant increase in allowable emissions'' to the definition of ''permit revision'' in section 74:36:01(50) and an exemption to the definition of ''modification'' in section 74:36:01:10, which will allow construction if the air emission increases meet the definition of an ''insignificant increase in allowable emissions.'' This can also be referred to as a ''de minimus exemption.'' DENR is proposing to add a definition for ''insignificant increase in allowable emissions,'' which is derived from Table 1 in 40 CFR 49.153, in 74:36:01:10.01. This process would still require the project to be covered by a permit but would use a process similar to the EPA's administrative amendment process.

We have also reviewed South Dakota's air monitoring data over the last 5 years (see docket). This data shows South Dakota is below the NAAQS for all criteria pollutants.

The EPA notes that we have approved several similar de minimis exemption provisions in other states as follows:

1. On January 16, 2003, the EPA approved a minor NSR program for the State of Idaho (68 FR 2217). This rule allows changes to be considered exempt from permitting if the source's uncontrolled potential emissions are less than ten percent (10%) of the NSR significant emissions rate. For example: 1.5 tons per year for PM_{10}, 4 tons per year for volatile organic compounds (VOCs), nitrogen dioxide (NO_2), and sulfur dioxide (SO_2), and 10 tons per year for carbon monoxide (CO). The EPA determined in this instance that states may exempt from minor NSR certain categories of changes based on de minimis or administrative necessity grounds in accordance with the criteria set out in Alabama Power Co. v. Costle, 636 F.2d 323 (D.C. Cir. 1979). De minimis sources are presumed to not have an impact and the state has determined that their emissions would not prevent or interfere with attainment of the NAAQS, even within nonattainment areas.

2. On February 13, 2012, the EPA approved a five tons per year potential emissions level as a de minimis threshold to be exempt from permitting requirements in the State of Montana (77 FR 7531). In this final rulemaking, the EPA determined this de minimis threshold met the requirements of CAA section 110(a)(2)(C), 40 CFR part 51.160 and CAA section 110(l).

3. On May 27, 2008, the EPA approved a 25 tons per year actual emissions level as a de minimis threshold for fossil fuel burning equipment to be exempt from permitting requirements in the State of North Dakota, and a 5 ton per year actual emissions level as a de minimis threshold for any internal combustion engine, or multiple engines to be exempt from permitting requirements. The EPA determined the revision will not adversely impact the NAAQS or PSD increments (73 FR 30308).

4. On February 1, 2006, the EPA approved a 5 tons per year actual emissions level as a de minimis threshold to be exempt from permitting requirements in the State of North Carolina (see 61 FR 3584).

We evaluated the addition of ''insignificant increase in allowable emissions'' to the South Dakota SIP using the following: (1) The statutory requirements under CAA section 110(a)(2)(C), which requires states to include a minor NSR program in their SIP to regulate modifications and new construction of stationary sources within the area as necessary to assure the NAAQS are achieved; (2) the regulatory requirements under 40 CFR 51.160, including section 51.160(b), which requires states to have legally enforceable procedures to prevent construction or modification of a source if it would violate any SIP control strategies or interfere with attainment or maintenance of the NAAQS; and (3) the statutory requirements under CAA section 110(l), which provides that the EPA cannot approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. Therefore, the EPA will approve a SIP revision only after it is demonstrated that such a revision will not interfere (''noninterference'') with attainment of the NAAQS, Rate of Progress (ROP), RFP or any other applicable requirement of the CAA.

We are proposing to approve the addition of ''insignificant increase in allowable emissions.'' These revisions are expected to be inconsequential to attainment and maintenance of the NAAQS because: (1) Section 74:36 has safeguards which prevent circumvention of NSR requirements; (2) Sources are still regulated by other rules within 74:36 and underlying statewide area source rules in the Administrative Rules of South Dakota (ARSD); (3) The insignificant thresholds in 74:36:01:10.01 are the same as the de minimis level threshold in the Tribal

NSR rule and similar to many of the federally enforceable minor NSR programs in surrounding states and around the country; (4) South Dakota contains areas of Indian country that are subject to the permitting thresholds in the tribal NSR rule; and (5) The last 5 years of monitoring data for criteria pollutants (see docket) show that all pollutants are below NAAQS levels.

Removal of 40 CFR 52.21(b)(49)(v) From 74:36:09 (PSD)

We are approving the removal of 40 CFR 52.21(b)(49)(v) from 74:36:09 to reflect the Coalition Amended Judgement, which only specifically ordered that the EPA regulations under review (including 40 CFR 51.166(b)(48)(v) and 52.21(b)(49)(v)) be vacated. The EPA's final rulemaking titled ''Prevention of Significant Deterioration and Title V Permitting for Greenhouse Gases: Removal of Certain Vacated Element,'' which was published on August 19, 2015 (80 FR 50199) removed 40 CFR 52.21(b)(49)(v) from the CFR.

Proposed Correction to IBR Material in Previous Rulemaking

In our final rule published in the **Federal Register** on February 16, 2016 (81 FR 7706) we inadvertently used an incorrect approval date in the updates to the South Dakota regulatory table. The EPA is proposing to correct this error with today's action. The IBR material for our February 16, 2016 action is contained within this docket.

IV. What action is the EPA taking?

For the reasons described in section III of this proposed rulemaking, the EPA is proposing to approve South Dakota's October 23, 2015 submittal, with the exceptions noted in section III. Our action is based on an evaluation of South Dakota's revisions against the requirements of CAA section 110(a)(2)(c) and regulatory requirements under 40 CFR 51.160–164 and 40 CFR 51.166. The EPA is also proposing to approve a correction to our final rule published in the **Federal Register** on February 16, 2016 (81 FR 7706).

IV. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the Administrative Rules of South Dakota pertaining to section 74:36 as outlined in this preamble. The EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

V. Statutory and Executive Order Reviews

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

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

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and the EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

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

Dated: July 26, 2016.

Shaun L. McGrath,

Regional Administrator, Region 8.

[FR Doc. 2016–18759 Filed 8–5–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 745

[EPA–HQ–OPPT–2016–0126; FRL–9950–27–OA]

Section 610 Review of the 2008 Lead; Renovation, Repair, and Painting Program (RRP); Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of public comment period.

SUMMARY: On June 9, 2016 the Environmental Protection Agency (EPA) published a request for comments on a Regulatory Flexibility Act section 610 review titled, Section 610 Review of Lead-Based Paint Activities; Training and Certification for Renovation and Remodeling Section 402(C)(3) (Section 610 Review). As initially published in the **Federal Register**, written comments were to be submitted to the EPA on or before August 8, 2016 (a 60-day public comment period). Since publication, the EPA has received a request for additional time to submit comments. Therefore, the EPA is extending the public comment period for 30 days until September 7, 2016.

DATES: The public comment period for the review published June 9, 2016 (81 FR 37373) is being extended for 30 days to September 7, 2016 in order to provide the public additional time to submit comments and supporting information.

ADDRESSES: *Comments:* Submit your comments, identified by Docket ID No.

EPA–HQ–OPPT–2016–0126, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: oppt.ncic@epa.gov,* Attention Docket ID No. EPA–HQ–OPPT–2016–0126.
- *Fax:* (202) 566–9744.
- *U.S. Mail:* Environmental Protection Agency, EPA Docket Center, Mailcode: 28221T, Attention Docket ID No. EPA–HQ–OPPT–2016–0126, 1200 Pennsylvania Ave. NW., Washington, DC 20460.
- *Hand Delivery:* EPA Docket Center, EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC, Attention Docket ID No. EPA–HQ–OPPT–2016–0126. Such deliveries are accepted only during the Docket Center's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OPPT–2016–0126. The EPA's policy is that all comments received will be included in the public docket without change and could be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means that the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment because of technical difficulties and cannot contact you for clarification, the EPA might not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about the EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.* For additional instructions on submitting comments, go to the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC 20004. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding federal holidays. The telephone number for the Public Reading Room is (202) 566–1744.

FOR FURTHER INFORMATION CONTACT: For additional information contact,

Jonathan Shafer, Environmental Protection Agency, Office of Chemical Safety and Pollution Prevention, 7404T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, Phone: 202 564–0789, Email: *shafer.jonathan@epa.gov.*

Michelle Price, Environmental Protection Agency, Office of Chemical Safety and Pollution Prevention, 7404T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, Phone: 202 566–0744, Email: *price.michelle@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

Section 610 of the Regulatory Flexibility Act requires that an agency review, within 10 years of promulgation, each rule that has or will have a significant economic impact on a substantial number of small entities (SISNOSE). The EPA undertakes section 610 reviews to decide whether the agency should continue a rule unchanged, amend it, or withdraw it. We encourage small entities to provide comments on the need to change these rules, and in particular, how the rules could be made clearer, more effective, or if there is need to remove conflicting or overlapping requirements with other Federal or State regulations.

The EPA has exercised its discretion to include changes made to the 2008 RRP rule as well as solicit comments on lead-test kits in this review.

II. Extension of Comment Period for the Section 610 Review of the 2008 RRP Rule

The EPA is extending the deadline for submitting comments on the section 610 review of the RRP Rule to September 7, 2016. The original deadline for comments, based on a 60-day comment period, was August 8, 2016. The EPA's decision responds to a request to extend the comment deadline. The EPA believes that this 30-day extension will assist in providing an adequate amount of additional time for the public to review the action and to provide written comments.

Dated: July 27, 2016.

William Nickerson,

Acting Director, Office of Regulatory Policy and Management.

[FR Doc. 2016–18520 Filed 8–5–16; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

RIN 0648–BF42

Fisheries of the Exclusive Economic Zone Off Alaska; Gulf of Alaska Management Area; Amendment 101

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

ACTION: Notice of availability of amendment to fishery management plan; request for comments.

SUMMARY: The North Pacific Fishery Management Council has submitted Amendment 101 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) to the Secretary of Commerce for review. Amendment 101 to the FMP would authorize the use of longline pot gear in the sablefish individual fishing quota (IFQ) fishery in the Gulf of Alaska (GOA). Amendment 101 is necessary to improve efficiency and provide economic benefits for the sablefish IFQ fleet and minimize potential fishery interactions with whales and seabirds. Amendment 101 is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and other applicable laws.

DATES: Submit comments on or before October 7, 2016.

ADDRESSES: You may submit comments on this document, identified by NOAA–

NMFS–2015–0126, by any one of the following methods:

• *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0126*, click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

• *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *http://www.regulations.gov* without change. All personal identifying information (*e.g.*, name, address) confidential business information, or otherwise sensitive information voluntarily submitted by the commenter will be publicly accessible. NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous).

Electronic copies of Amendment 101 to the FMP, the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis prepared for this action (collectively, Analysis), and the Finding of No Significant Impact prepared for this action may be obtained from *http://www.regulations.gov* or from the NMFS Alaska Region Web site at *http://www.alaskafisheries/noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Rachel Baker, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries in the Exclusive Economic Zone of the GOA under the FMP. The North Pacific Fishery Management Council (Council) prepared the FMP under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801 *et seq.*). Regulations implementing the FMP appear at 50 CFR part 679.

The Magnuson-Stevens Act requires that each regional fishery management council submit any fishery management plan amendment it prepares to NMFS for review and approval, disapproval, or partial approval by the Secretary of Commerce (Secretary). The Magnuson-Stevens Act also requires that NMFS, upon receiving a fishery management plan amendment, immediately publish a document in the **Federal Register** announcing that the amendment is available for public review and comment. This document announces that proposed Amendment 101 to the FMP is available for public review and comment.

Amendment 101 to the FMP would revise the IFQ Program for sablefish fisheries in the GOA. The IFQ Program for the fixed-gear commercial fisheries for sablefish and halibut in waters in and off Alaska is a limited access privilege program implemented in 1995 (58 FR 59375, November 9, 1993). The IFQ Program limits access to the sablefish and halibut fisheries to those persons holding quota share in specific management areas. The amount of halibut and sablefish that each quota share holder may harvest is calculated annually and is issued as IFQ in pounds.

The IFQ Program for Pacific halibut is implemented under the authority of the Northern Pacific Halibut Act of 1982. The Council does not have a halibut fishery management plan.

Amendment 101 would apply to catcher vessels and catcher/processors fishing for sablefish IFQ in the GOA. The sablefish regulatory areas defined for sablefish in the GOA are the Southeast Outside District of the GOA, West Yakutat District of the GOA, Central GOA, and Western GOA. The sablefish regulatory areas are defined and shown in Figure 14 to part 679.

The FMP currently authorizes only longline gear for the GOA sablefish IFQ fishery. Longline gear includes hook-and-line, jig, troll, and handline gear. Fishery participants have used longline hook-and-line gear (hook-and-line gear) to harvest sablefish IFQ in the GOA because it is more efficient than jig, troll, or handline gear. However, various species of whales can remove or damage sablefish caught on hook-and-line gear (depredation). Depredation occurs with hook-and-line gear because sablefish are captured on hooks that lie on the ocean floor. Whales can completely remove or damage sablefish captured on these hooks before the gear is retrieved. Longline pot gear is an efficient gear and prevents depredation because whales cannot remove or damage sablefish enclosed in a pot.

Longline pot gear was historically used to harvest sablefish in the GOA. However, under the open access management program race for fish that existed prior to the implementation of the IFQ Program, some vessel operators deployed hook-and-line gear, while other vessel operators deployed pot gear in the same fishing areas. This resulted in gear conflicts and loss of gear on the fishing grounds. The longline pot groundline is heavier and stronger than the groundline used to attach the series of hooks on hook-and-line gear. If longline pot gear is set over previously deployed hook-and-line gear, the weaker hook-and-line gear can be damaged or lost as it is being retrieved. The Council and NMFS have not received reports of gear conflicts between hook-and-line gear. In 1986, NMFS implemented a phased-in prohibition of pot gear in the GOA sablefish fishery (50 FR 43193, October 24, 1985) to minimize potential gear conflicts that occurred during the open access management fishery and prior to the implementation of the IFQ Program.

Beginning in 2009, the Council and NMFS received reports from sablefish IFQ fisherman that depredation on hook-and-line gear was adversely impacting the sablefish IFQ fleet. Depredation can result in lost catch, additional time waiting for whales to leave fishing grounds before hauling gear, and additional time and fuel spent relocating gear to avoid whales. Depredation also has negative consequences for whales through increased risk of vessel strike, gear entanglement, and altered foraging strategies. While depredation events are difficult to observe because they take place on the ocean floor in deep water, fishery participants have testified to the Council that depredation continues to be a major cost to the GOA sablefish IFQ fishery, and appears to be occurring more frequently.

Industry groups have tested a variety of methods to deter whales from preying on fish caught on hook-and-line gear, such as gear modifications and acoustic decoys, but these methods have not substantially reduced the problem of depredation in the GOA sablefish IFQ fishery.

In April 2015, the Council recommended Amendment 101 to authorize longline pot gear for use in the sablefish IFQ fishery in the GOA. Amendment 101 would amend Sections 3.2.3.4.3.3.1, 3.4.1, 3.4.2, 3.6.2, 3.7.1.1, 3.7.1.7, and 4.1.2.3 of the FMP to authorize longline pot gear to harvest sablefish in the GOA sablefish IFQ fishery. Amendment 101 would make minor editorial revisions to the Executive Summary and Appendix A of the FMP to list and describe Amendment 101.

Amendment 101 would authorize, but not require, a harvester to use longline pot gear in the GOA sablefish IFQ fishery. Providing fishermen with the opportunity to use longline pot gear would reduce the adverse impacts of depredation for fishermen who choose to use longline pot gear.

Amendment 101 is necessary to (1) improve efficiency in harvesting sablefish IFQ and reduce adverse economic impacts on harvesters that occur from depredation, and (2) reduce sablefish IFQ fishery interactions with whales and seabirds.

Amendment 101 would reduce the adverse impacts of depredation for those harvesters who choose to switch to longline pot gear from hook-and-line gear. These harvesters would benefit from reduced operating costs and reduced fishing time needed to harvest sablefish IFQ. Amendment 101 would provide individual harvesters with the option to use longline pot gear if they determine it is appropriate for their fishing operation. Amendment 101 would reduce the associated risks to whales including vessel strikes, gear entanglement, and altered foraging strategies. The Analysis for Amendment 101 indicates that authorizing longline pot gear is expected to have a positive effect on killer whales and sperm whales from reduced interactions with fishing gear.

In recommending Amendment 101, the Council recognized that pot gear had previously been authorized in the GOA sablefish fishery, but its use was prohibited prior to implementation of the IFQ Program due to conflicts between hook-and-line and pot gear on the fishing grounds. The Council and NMFS agree that authorizing longline pot gear in the GOA sablefish IFQ fishery under Amendment 101 is appropriate because the fishery is managed under the IFQ Program. The IFQ Program provides fishermen with substantially more flexibility on when and where to harvest sablefish compared to the open access management program prior to implementation of the IFQ Program. The IFQ Program makes it unlikely that hook-and-line and longline pot gear conflicts would occur or that fishing grounds would be preempted for extended periods in the same manner previously analyzed by the Council and NMFS.

Amendment 101 would reduce fishing interactions with seabirds. Fishing interactions can result in direct mortality for seabirds if they become entangled in fishing gear or strike the vessel or fishing gear while flying. Hook-and-line gear has the greatest impact on seabirds relative to other fishing gear. Although seabird mortality in the GOA sablefish IFQ fishery makes up a very small portion of total estimated seabird mortality from fisheries in Alaska, the Analysis determined that Amendment 101 would reduce incidental catch of seabirds in the GOA sablefish IFQ fishery. Amendment 101 would provide vessel operators with the opportunity to use longline pot gear, which has a lower rate of incidental catch of seabirds than hook-and-line gear.

NMFS is soliciting public comments on proposed Amendment 101 through the end of the comment period (see **DATES**). NMFS intends to publish in the **Federal Register** and seek public comment on a proposed rule that implements Amendment 101 following NMFS' evaluation of the proposed rule under the Magnuson-Stevens Act. NMFS will consider all comments received by the end of the comment period on Amendment 101, whether specifically directed to the FMP amendment or its implementing proposed rule, in the approval/disapproval decision on Amendment 101. NMFS will not consider comments received after that date in the approval/disapproval decision on the amendment. To be considered, comments must be received, not just postmarked or otherwise transmitted, by the close of business on the last day of the comment period.

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

Dated: August 3, 2016.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–18745 Filed 8–5–16; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 81, No. 152
Monday, August 8, 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

Forest Service

Kistachie National Forest Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Kisatchie National Forest Resource Advisory Committee (RAC) will meet in Pineville, Louisiana. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. RAC information can be found at the following Web site: *http://www.fs.usda.gov/kisatchie/.*

DATES: The meeting will be held on September 8, 2016 at 6:30 p.m.

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

ADDRESSES: The meeting will be held at the Alexandria Forestry Center, 2500 Shreveport Highway, 3rd Floor Conference Room, Pineville, Louisiana.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION.** All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Forest Supervisor's Office, 2500 Shreveport Highway, Pineville, Louisiana. Please call ahead at 318–473–7160 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Stacy Blomquist, Public Affairs Specialist, USDA Kisatchie National Forest by phone at 318–473–7242, or via email at *sblomquist@fs.fed.us.*

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

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Review the RAC guidebook, committee operations, rules, and bylaws, and
2. Review and select proposed Title II projects.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by September 5, 2016, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time to make oral comments must be sent to Stacy Blomquist, Public Affairs Specialist, USDA Kisatchie National Forest, 2500 Shreveport Highway, Pineville, Louisiana 71360; or by email to *sblomquist@fs.fed.us,* or via facsimile to (318) 473–7160.

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

Dated: August 2, 2016.

William E. Taylor, Jr.,

Forest Supervisor.

[FR Doc. 2016–18719 Filed 8–5–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Nicolet Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Nicolet Resource Advisory Committee (RAC) will meet in Crandon, Wisconsin. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. The meeting is open to the public. The purpose of the meeting is to review and approve project submissions.

DATES: The meeting will be held Tuesday, August 30, 2016 at 9:00 a.m.

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

ADDRESSES: The meeting will be held at the Forest County Courthouse, County Boardroom, 200 East Madison Street, Crandon, Wisconsin.

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

FOR FURTHER INFORMATION CONTACT: Penny K. McLaughlin, RAC Coordinator, by phone at 715–362–1381 or via email at *pmclaughlin@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday. Please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed above.

SUPPLEMENTARY INFORMATION: Additional RAC information, including the meeting agenda and the meeting summary/minutes can be found at the following Web site: *https://fsplaces.fs.fed.us/fsfiles/unit/wo/secure_rural_schools.nsf/RAC/Nicolet.*

The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by August, 15, 2016 to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Penny K. McLaughlin, RAC Coordinator, Chequamegon-Nicolet National Froest Supervisor's Office, 500 Hanson Lake Road, Rhinelander, Wisconsin 54501; by email to *pmclaughlin@fs.fed.us* or via facsimile to 715–369–8859.

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

Dated: August 1, 2016.

Linda Riddle,

Acting Forest Supervisor.

[FR Doc. 2016–18732 Filed 8–5–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Solicitation of Applications (NOSA) for Loans to Re-Lenders Under the Community Facility Loan Program for Fiscal Year (FY) 2016; Correction

AGENCY: Rural Housing Service, USDA.

ACTION: Notice; correction.

SUMMARY: The Agency published a document in the **Federal Register** of July 6, 2016, seeking applications from Re-Lenders under the Community Facility (CF) Loan Program for FY 2016. The Rural Housing Service (RHS) amended the CF Direct Loan regulations to make loans to qualified Re-Lenders who will loan those funds to Applicants primarily for projects in or serving persistent poverty counties or high poverty areas that are eligible for the CF Loan Program. This document has an incorrect cross-reference and an incorrect hyperlink which both need to be corrected.

DATES: Effective August 8, 2016.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Alton Kimura, (202) 720–1390.

Correction

In the **Federal Register** of July 6, 2016, FR Doc 2016–16003, make the following corrections:

1. On page 43987, third column, fifth paragraph, fifth line, under section III. Definitions: Remove hyperlink *http://rdgisportal.sc.egov.usda.gov/home/index.html,* and add *http://rdgdwe.sc.egov.usda.gov/rdpoverty/index.html.*

2. On page 43989, second column, second line under section V(A)(p) of V. Application Submission: Remove cross reference (IV)(A)(e)(3)(b) (Agency risk assessment)and add (IV)(A)(h)(ii).

Dated: August 3, 2016.

Joyce Allen,

Acting Administrator, Rural Housing Service.

[FR Doc. 2016–18825 Filed 8–5–16; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; 2017 Census Test

AGENCY: U.S. Census Bureau, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: To ensure consideration, written comments must be submitted on or before October 7, 2016.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *jjessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Robin A. Pennington, Census Bureau, HQ–2K281N, Washington, DC 20233; (301) 763–8132 (or via email at *robin.a.pennington@census.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

During the years preceding the 2020 Census, the Census Bureau is pursuing its commitment to reducing the cost of conducting the census while maintaining the quality of the results. The 2017 Census Test will allow the Census Bureau to test operations and procedures that have not yet been tested during this inter-census phase but that take advantage of the research that has been done and the technological advances that have been made since the 2010 Census.

The testing will take place on two American Indian or Alaska Native reservations, as well as in a nationally representative sample of 80,000 housing units. The questionnaires will contain different versions of tribal enrollment questions, the testing of which is one of two primary objectives of this test. A set of census operations will occur on the reservations, including development and update of the address frame or list, self-response involving delivery of printed questionnaires and other materials through mail, and enumeration at the household when self-response does not occur. The Update Enumerate (UE) operation planned for this test and for eventual use in the 2020 Census incorporates the address frame update and enumeration activities. Integrating these activities into one operation is the second primary objective for the Census Bureau in this test. This type of operation is cost-effective and manageable only in such areas where special procedures are needed due to types of addresses and various geographic considerations. Note that this type of operation was used for enumeration at about one percent of addresses in the 2010 Census.

Address Frame Maintenance and Usage

Prior to production of Update Enumerate activities, the address frame will be reviewed and updated through In-Office Address Canvassing. For the 2010 Census, the address frame was reviewed and updated during Address Canvassing, which was a field operation conducted before the 2010 Census Update Enumerate operation. Update Enumerate will be the first operation to review and update the address frame in the field for the areas in the 2017 Census Test. This revised procedure is an innovation as compared to the 2010 Census.

Questionnaires and mailing materials will be printed using the updated address list from In-Office Address Canvassing. Materials will be mailed to all mailable addresses (determined through Coding Accuracy Support

System certification) in the selected test site areas before the Update Enumerate operation commences. The mailing packages will provide both the 2017 Census Test Uniform Resource Locator (URL) and the phone number for Census Questionnaire Assistance (CQA). The package will also contain a paper questionnaire.

A further innovation for these UE areas is that a variety of means of achieving response will be used, as in previous census tests and in different types of areas. In particular, in addition to the materials sent to mailable addresses before the field operation begins, Internet response will be an option for all households in the test area. Self-response prior to enumeration is possible through the mail-back of a questionnaire (if received), response on the Internet, or response on the telephone through CQA. Generally, the materials will provide a Census ID for use in response, although it will also be possible for respondents to submit responses via Internet or CQA without an ID. Those households that have self-responded will be removed from the workload for the enumeration. Households that do not self-respond by the time of the household in-person visit in Update Enumerate will be enumerated at that time if a respondent is available.

Testing the feasibility of collecting tribal enrollment questions on the questionnaire is one of the primary objectives of this test. In order to collect data from other geographic locations and from a broader representation of American Indian or Alaska Native respondents for analysis of the tribal enrollment questions, a separate sample of 80,000 households will be drawn for a national self-response-only operation, oversampled for areas with relatively higher concentrations of people estimated to identify as American Indian or Alaska Native.

For the self-response-only sample, there will be no follow-up to obtain response from non-responding households. However, we will conduct a content reinterview (using an outbound telephone operation) to assess the validity of the tribal enrollment question. The sub-sample of 15,000 households for the content reinterview will be drawn from the sites and the national sample.

The Census Bureau has not done prior testing this decade in the type of geographic area that is included in the test sites. The areas selected for the 2017 Census Test differ from the generally more urban or suburban areas with a predominance of city-style addresses. The 2017 Census Test areas are sparser and contain a lower percentage of city-style addresses. The Census Bureau has traditionally used a methodology like that of the planned Update Enumerate for completing the census in these types of areas.

The complexity of all the overlapping listing, self-response, and enumeration operations and the necessity of multiple systems to provide updates for tracking progress in the field operation make the 2017 Census Test essential for planning for the 2020 Census. By working through all the operational and system development and then learning from the challenges that still arise during the operation, the Census Bureau will be better prepared to perform this complex operation in the 2020 Census. The geographic areas selected for the test may be less accessible or sparsely populated, in addition to having a low rate of mailable addresses. As such, these areas do not lend themselves to performing the traditional mailing and self-response enumeration methodology for the census. For areas that are known to require a personal visit during the census, there is cost containment from not visiting the area prior to the enumeration.

This test will incorporate a number of the automation and management innovations that have been tested this decade, where other enumeration methodologies were used. In particular, Internet is available as the primary response mode, UE field data collection operations will be automated, and Field Infrastructure will continue to be refined with automated work assignments and management overview. In addition, Census Questionnaire Assistance (CQA) will offer the option for completing the questionnaire on the telephone and will include the option for language assistance. Within CQA, Interactive Voice Recognition will be available to answer respondent questions and to route calls to agents, as necessary. Results may differ from those observed in prior tests, such as if there is limited internet connectivity.

Below we provide additional details about the specific operations that will be tested or refined in this test.

Operations

Update Enumerate (UE)

The 2017 Census Test will allow the Census Bureau to test the Update Enumerate operation, which combines listing methodologies of Address Canvassing with the enumeration methodologies from Nonresponse Followup. This operation occurs in geographic areas that:

- Do not have city-style addresses.
- Do not receive mail through city-style addresses.
- Receive mail at post office boxes.
- Have unique challenges associated with accessibility to the housing unit.
- Have been affected by natural disasters.
- Have high concentrations of seasonally vacant housing.

The following objectives are being tested for Update Enumerate:

- Integrating listing and enumeration operations and systems.
- Evaluating the impact on cost and quality of the contact strategy on enumerator productivity and efficiency in these types of areas.
- Testing continued refinements to the field data collection instrument for enumeration including such things as allowing collection of data from 'other' address in-movers and whole household usual home elsewhere cases.
- Continuing enhancements to field operational procedures that are newly defined for the 2020 Census.
- Testing field supervisor to enumerator ratios in these types of areas.
- Testing refinements to alerts from operational control systems.

II. Method of Collection

The test will occur in two selected sites and using a national sample.

Test Sites

The test will take place on two American Indian areas—the Colville Indian Reservation and Off-Reservation Trust Land in Washington and the Standing Rock Reservation in North Dakota and South Dakota. Approximately 3,500 and 2,900 housing units, respectively, within the areas will be invited to participate.

Update Enumerate (UE)

Update Enumerate for the 2017 Census Test will test three of the components of the operation: Update Enumerate Production, Update Enumerate Followup, and Update Enumerate Reinterview, as described in more detail below. These are new components of the completely updated operational design for Update Enumerate. In addition to the field operation, the Census Bureau is testing mailing out an invitation package to housing units in the test site with a mailable address to generate self-response before the UE operation begins. If a household self-responds, the UE field staff person (enumerator) will not enumerate that house while listing the geographic area. This is a cost savings to Update Enumerate since the enumerator will not have to spend time

enumerating self-responding households.

Update Enumerate Production

The UE enumerators visit specific geographic areas to identify every place where people could live or stay, comparing what they see on the ground to the existing census address list, and either verify or correct the address and location information. Much like Address Canvassing, enumerators classify each living quarter (LQ) as a housing unit or Group Quarter (GQ). If the LQ is classified as a GQ, no attempt is made to enumerate at the GQ within this test, since the plan for the 2020 Census is to have a unique operation enumerate GQs.

The enumerators will attempt to conduct an interview for each housing unit if there is no self-response. If someone answers the door, the enumerators will provide a Confidentiality Notice and ask about the address in order to verify or update the information, as appropriate. The enumerators will then ask if there are any additional LQs in the structure or on the property. If there are additional LQs, the enumerators will collect/update that information, as appropriate. The enumerator will then interview the respondent using the questionnaire on the mobile device.

If no one is home at a non-responding housing unit, the enumerator will leave a Notice of Visit inviting a respondent for each household to go online with an ID to complete the 2017 Census Test Questionnaire. The Notice of Visit will also include the phone number for Census Questionnaire Assistance if the respondent has any questions or would prefer to respond on the phone. The housing unit will be included in the Update Enumerate Followup until self-response is received.

Update Enumerate Followup

The UE operation will have a UE Followup component for those households that were not enumerated on the first visit and have not responded via the Internet or telephone. The UE Followup will use the same contact strategies and business rules as Nonresponse Followup. UE enumerators will conduct the operation using then Census Bureau provided listing and enumeration application on a Census Bureau provided mobile device.

Update Enumerate Reinterview

A sample of cases enumerated via Update Enumerate or Update Enumerate Followup will be selected for reinterview. The intention of this operation is to help pinpoint possible cases of enumerator falsification. Update Enumerate Reinterview will use the Census Bureau's enumeration software on mobile devices. We will also test centralized phone contacts of the reinterview cases before sending them to an enumerator in the field, providing potential cost savings.

Self-Response

A separate, nationally representative sample of 80,000 addresses will be drawn for a self-response-only operation, oversampled for areas with relatively higher concentrations of people estimated to identify as American Indian or Alaska Native. These addresses will receive mailed materials (letter, postcards and/or questionnaire) and can respond by Internet (either with or without a pre-assigned ID) or by returning a paper questionnaire or by telephone.

Households from both the test sites and the self-response sample areas will be eligible for the sample for content reinterview follow-up. This interview will be performed by telephone.

III. Data

OMB Control Number: 0607–XXXX.

Form Number(s): Paper and electronic questionnaires; numbers to be determined.

Type of Review: Regular submission.

Affected Public: Households/Individuals.

Estimated Number of Respondents

Self-Response: 35,000.
Update Enumerate Operations: 6,400.
Update Enumerate Reinterview: 634.
Content Reinterview: 9,000.
Total: 51,034.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours

Self-Response: 5,833.
Update Enumerate Operations: 1,067.
Update Enumerate Reinterview: 106.
Content Reinterview: 1,500.
Total: 8,506.

	Estimated number of responses	Estimated time per response (minutes)	Total respondent burden (minutes)
National Sample			
Self-Response	35,000	10	5,833
American Indian Reservation Sample			
Update Enumerate Operations	6,400	10	1,067
Update Enumerate Reinterview	634	10	106
Content Reinterview	9,000	10	1,500
Totals	51,034		8,506

Estimated Total Annual Cost to Public: There are no costs to respondents other than their time to participate in this data collection.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 U.S.C. Sections 141 and 193.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection;

they also will become a matter of public record.

Dated: August 3, 2016.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2016–18722 Filed 8–5–16; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–50–2016]

Foreign-Trade Zone 193—Pinellas County, Florida; Application for Reorganization and Expansion Under Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by Pinellas County, Florida, grantee of FTZ 193, requesting authority to reorganize and expand the zone under the alternative site framework (ASF) adopted by the FTZ Board (15 CFR Sec. 400.2(c)). The ASF is an option for grantees for the establishment or reorganization of zones and can permit significantly greater flexibility in the designation of new subzones or ''usage-driven'' FTZ sites for operators/users located within a grantee's ''service area'' in the context of the FTZ Board's standard 2,000-acre activation limit for a zone. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally docketed on August 2, 2016.

FTZ 193 was approved by the FTZ Board on February 17, 1993 (Board Order 630, 58 FR 11833, March 1, 1993). The current zone includes the following sites: *Site 1* (1,771 acres)—St Petersburg-Clearwater International Airport Complex, 14700 Terminal Boulevard, Clearwater; *Site 2* (3 acres)—Port of St. Petersburg, 250 8th Avenue SE., St. Petersburg; *Site 3* (96 acres)—Pinellas Science, Technology & Research Center, Bryan Dairy and Belcher Roads, Largo; *Temporary Site 4* (13 acres, expires 8/31/2017)—HIT Promotional Products, Inc., 7150 Bryan Dairy Road, Largo; *Temporary Site 5* (3 acres, expires 8/31/2017)—HIT Promotional Products, Inc., 8155 Bryan Dairy Road, Largo; *Temporary Site 6* (4.5 acres, expires 8/31/2017)—HIT Promotional Products, Inc., 3320 122nd Avenue North, Largo; and, *Temporary Site 7* (3.09 acres, expires 8/31/2017)—HIT Promotional Products, Inc., 10810 72nd Street, Largo.

The grantee's proposed service area under the ASF would be Pinellas, Hernando and Pasco Counties, Florida, as described in the application. If approved, the grantee would be able to serve sites throughout the service area based on companies' needs for FTZ designation. The application indicates that the proposed service area is within and adjacent to the St. Petersburg Customs and Border Protection port of entry.

The applicant is requesting authority to reorganize its existing zone to include existing Sites 1, 2 and 3 as ''magnet'' sites and Sites 4, 5, 6 and 7 would become ''usage-driven'' sites. The ASF allows for the possible exemption of one magnet site from the ''sunset'' time limits that generally apply to sites under the ASF, and the applicant proposes that Site 1 be so exempted. The application would have no impact on FTZ 193's previously authorized subzone.

In accordance with the FTZ Board's regulations, Camille Evans of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is October 7, 2016. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to October 24, 2016.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.* For further information, contact Camille Evans at *Camille.Evans@trade.gov* or (202) 482–2350.

Dated: August 2, 2016.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2016–18782 Filed 8–5–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 2004]

Expansion of Subzone 116C, Premcor Refining Group Inc., Port Arthur, Texas

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

WHEREAS, the Foreign-Trade Zones Act provides for ''. . . the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

WHEREAS, the Board's regulations (15 CFR part 400) provide for the establishment of subzones for specific uses;

WHEREAS, the Foreign-Trade Zone of Southeast Texas, Inc., grantee of Foreign-Trade Zone 116, has made application to the Board to expand Subzone 116C on behalf of Premcor Refining Group Inc., to include an additional site and pipeline (Site 5) in Port Arthur, Texas (FTZ Docket B–6–2016, docketed February 9, 2016);

WHEREAS, notice inviting public comment has been given in the **Federal Register** (81 FR 7745, February 16, 2016) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

WHEREAS, the Board adopts the findings and recommendations of the examiner's memorandum, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

NOW, THEREFORE, the Board hereby approves the expansion of Subzone 116C on behalf of Premcor Refining Group Inc., as described in the application and **Federal Register** notice, subject to the FTZ Act and the Board's regulations, including Section 400.13.

Signed at Washington, DC, this July 29, 2016.

Ronald K. Lorentzen,

Acting Assistant Secretary of Commerce for Enforcement and Compliance, Alternate Chairman, Foreign-Trade Zones Board.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2016–18785 Filed 8–5–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 2005]

Approval of Subzone Status, Barrett Distribution Centers, Inc., Franklin, Massachusetts

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

WHEREAS, the Foreign-Trade Zones Act provides for ''. . . the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

WHEREAS, the Board's regulations (15 CFR part 400) provide for the establishment of subzones for specific uses;

WHEREAS, the Massachusetts Port Authority, grantee of Foreign-Trade Zone 27, has made application to the Board for the establishment of a subzone at the facility of Barrett Distribution Centers, Inc., located in Franklin, Massachusetts (FTZ Docket B–9–2016, docketed 02–17–2016);

WHEREAS, notice inviting public comment has been given in the **Federal Register** (81 FR 8907, February 23, 2016) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

WHEREAS, the Board adopts the findings and recommendations of the examiner's memorandum, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

NOW, THEREFORE, the Board hereby approves subzone status at the facility of Barrett Distribution Centers, Inc., located in Franklin, Massachusetts (Subzone 27O), as described in the application and **Federal Register** notice, subject to the FTZ Act and the Board's regulations, including Section 400.13.

Dated: July 29, 2016.

Ronald K. Lorentzen,

Acting Assistant Secretary of Commerce for Enforcement and Compliance, Alternate Chairman, Foreign-Trade Zones Board.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2016–18781 Filed 8–5–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–967; C–570–968]

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

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

SUMMARY: On July 18, 2016, the United States Court of International Trade (CIT) sustained the Department of Commerce's (Department) final results of redetermination in which the Department determined, under protest, that certain kitchen appliance door handles are not covered by the scope of the antidumping (AD) and countervailing duty (CVD) orders on aluminum extrusions from the People's Republic of China.

DATES: *Effective Date:* July 28, 2016.

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

SUPPLEMENTARY INFORMATION:

Background

On June 21, 2013, the Department issued a final scope ruling in which it determined that three types of kitchen appliance door handles (Types A, B, and C) imported by Meridian are within the scope of the *Orders* [1] and did not meet the scope exclusions for ''finished merchandise'' and ''finished goods kits.'' [2] Meridian challenged the Department's final scope ruling at the CIT.

On December 7, 2015, the CIT issued an opinion and order in *Meridian I* sustaining the Department's findings in the Kitchen Appliance Door Handles Scope Ruling that Meridian's Type A door handles (consisting of a single piece of aluminum extrusion) and Type C door handles (consisting of a single piece of aluminum extrusion packaged as a ''kit'' with a tool and an instruction manual) are within the scope of the *Orders* based on a plain reading of the scope language.[3] The Court, however, remanded the Department's determination that Type B door handles (consisting of a single piece of aluminum extrusion with two plastic end caps fastened on with screws) are within the scope of the *Orders.* The Court found the Department's determination to be unsupported by the general scope language.[4] The Court further found that, assuming *arguendo* that Meridian's Type B door handles were covered by the scope language, the Department erred in finding that the products did not satisfy the ''finished merchandise'' exclusion.[5]

On March 23, 2016, the Department issued its Final Results of Redetermination, in which it found, respectfully, under protest, that Meridian's Type B door handles are not covered by the scope of the *Orders* because the general scope language did not cover such products. As a result, the Department did not consider whether Meridian's Type B door handles were subject to the exclusion for ''finished merchandise.'' [6]

On July 18, 2016, in *Meridian II* the Court sustained the Department's finding in the Final Results of Redetermination that Meridian's Type B door handles are not covered by the scope of the *Orders.*[7] Consistent with the decision of the United States Court of Appeals for the Federal Circuit (Federal Circuit) in *Timken Co.* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), as clarified by *Diamond Sawblades Mfrs. Coalition* v. *United States,* 626 F.3d 1374 (CAFC 2010) (*Diamond Sawblades*), the Department is notifying the public that the final judgment in this case is not in harmony with the Department's final scope ruling and is amending the final scope ruling to find that certain kitchen appliance door handles imported by Meridian LLC (Meridian) are not covered by the scope of the AD and CVD orders on aluminum extrusions from the People's Republic of China.

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

[2] *See* ''Final Scope Ruling on Meridian Kitchen Appliance Door Handles,'' dated June 21, 2013 (Kitchen Appliance Door Handles Scope Ruling) at 12–15.

[3] *See Meridian Products LLC* v. *United States,* Court No. 13–00246, Slip Op. 15–135 *(Meridian I)* at 6–9.

[4] *Id.,* at 10–13.

[5] *Id.,* at 13–16.

[6] *See* Final Results of Redetermination Pursuant to Court Remand, *Meridian Products, LLC* v. *United States,* Court No. 13–00246, Slip Op. 15–135 (CIT December 7, 2015) (Final Results of Redetermination).

[7] *See Meridian Products, LLC* v. *United States,* Court No. 13–00246, Slip Op. 16–71 *(Meridian II)* at 11.

Timken Notice

In its decision in *Timken,* 893 F.2d at 341, as clarified by *Diamond Sawblades,* the Federal Circuit held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (the Act), the Department must publish a notice of a court decision that is not ''in harmony'' with a Department determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The CIT's July 18, 2016, judgment in *Meridian II* sustaining the Department's finding in the Final Results of Redetermination that Meridian's Type B door handles are not covered by the scope of the *Orders* constitutes a final decision of the Court that is not in harmony with the Kitchen Appliance Door Handles Scope Ruling. This notice is published in fulfillment of the publication requirements of *Timken.* Accordingly, the Department will continue the suspension of liquidation of Meridian's Type B door handles at issue pending expiration of the period of appeal or, if appealed, pending a final and conclusive court decision.

Amended Final Scope Ruling

Because there is now a final court decision with respect to the Kitchen Appliance Door Handles Scope Ruling, the Department amends its final scope ruling and finds that the scope of the *Orders* does not cover Meridian's Type B door handles. The Department will instruct U.S. Customs and Border Protection (CBP) that the cash deposit rate will be zero percent for Meridian's Type B door handles. In the event the CIT's ruling is not appealed, or if appealed, upheld by the Federal Circuit, the Department will instruct CBP to liquidate entries of Meridian's Type B door handles without regard to antidumping and/or countervailing duties, and to lift suspension of liquidation of such entries.

This notice is issued and published in accordance with section 516A(c)(1) of the Act.

Dated: August 2, 2016.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2016–18788 Filed 8–5–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–851]

Certain Preserved Mushrooms From the People's Republic of China: Preliminary Rescission of 2015 Antidumping Duty New Shipper Review

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

SUMMARY: The Department of Commerce (the Department) is conducting a new shipper review (NSR) of the antidumping duty order on certain preserved mushrooms from the People's Republic of China (PRC). The NSR covers merchandise exported by Linyi Yuqiao International Trade Co., Ltd. (Yuqiao) and produced by Linyi City Kangfa Drinkable Co., Ltd. The period of review (POR) is February 1, 2015 through July 31, 2015. The Department preliminarily determines that Yuqiao did not make a *bona fide* sale during the POR. Because any weighted average dumping margin must be based solely on *bona fide* sales, we are preliminarily rescinding this NSR. Interested parties are invited to comment on the preliminary results of this review.

DATES: Effective August 8, 2016.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney or Robert James, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4475 and (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 8, 2015, the Department published a notice of initiation of a new shipper review of the antidumping duty order on certain preserved mushrooms from the PRC.[1] The Department subsequently issued an antidumping duty questionnaire, and supplemental questionnaires, to Yuqiao and received timely responses thereto.

The Department has exercised its discretion to toll all administrative deadlines due to the recent closure of the Federal government because of Snowstorm ''Jonas.'' Thus, all of the deadlines in this segment of the proceeding have been extended by four business days. The revised deadline for the preliminary results of this review, after the four business-day extension, was April 4, 2016.[2] However, on March 28, 2016, the Department extended the time period for issuing the preliminary results of this NSR by 120 days, until August 2, 2016.[3]

Scope of the Order

The products covered by this order are certain preserved mushrooms, whether imported whole, sliced, diced, or as stems and pieces. The certain preserved mushrooms covered under this order are the species *Agaricus bisporus* and *Agaricus bitorquis.* ''Certain Preserved Mushrooms'' refers to mushrooms that have been prepared or preserved by cleaning, blanching, and sometimes slicing or cutting. These mushrooms are then packed and heated in containers including, but not limited to, cans or glass jars in a suitable liquid medium, including, but not limited to, water, brine, butter or butter sauce. Certain preserved mushrooms may be imported whole, sliced, diced, or as stems and pieces. Included within the scope of this order are ''brined'' mushrooms, which are presalted and packed in a heavy salt solution to provisionally preserve them for further processing. The merchandise subject to this order is classifiable under subheadings: 2003.10.0127, 2003.10.0131, 2003.10.0137, 2003.10.0143, 2003.10.0147, 2003.10.0153, and 0711.51.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the scope of this order is dispositive.[4]

Methodology

The Department is conducting this review in accordance with section

[1] *See Certain Preserved Mushrooms From the People's Republic of China: Initiation of Antidumping Duty New Shipper Review,* 80 FR 60883 (October 8, 2015) (*Initiation Notice*).

[2] *See* Memorandum to the Record from Ron Lorentzen, Acting Assistant Secretary for Enforcement & Compliance, regarding ''Tolling of Administrative Deadlines as a Result of the Government Closure during Snowstorm Jonas,'' dated January 27, 2016.

[3] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, ''Certain Preserved Mushrooms from the People's Republic of China: Extension of Deadline for the Preliminary Results of Antidumping Duty New Shipper Review,'' dated March 28, 2016.

[4] For a complete description of the scope of the order, *see* ''Decision Memorandum for the Preliminary Rescission of the 2015 Antidumping Duty New Shipper Review of Certain Preserved Mushrooms from the People's Republic of China,'' from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance (Preliminary Decision Memorandum), dated concurrently with this notice.

751(a)(2)(B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.214. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum, which is hereby adopted by this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and is available in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/*. The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

Preliminary Rescission of the Antidumping New Shipper Review of Yuqiao

As discussed in the *Bona Fide* Sales Analysis Memorandum,[5] the Department preliminarily finds that the sale made by Yuqiao is not a *bona fide* sale. The Department reached this conclusion based on its consideration of the totality of the circumstances surrounding the reported sale, including the timing of Yuqiao's one U.S. sale, the importer's lateness in paying Yuqiao, and other elements relating to the atypical behavior of all parties in the transaction chain. These factors indicate that Yuqiao's single U.S. sale is not representative of normal business practices and, thus, is not a *bona fide* sale.[6] Because the factual information used in our *bona fides* analysis of Yuqiao's sale involves business proprietary information, for a full discussion of the basis for our preliminary determination *see* the *Bona Fide* Sales Analysis Memorandum.

Public Comment

Interested parties may submit case briefs no later than 30 days after the date of publication of the preliminary results of review.[7] Rebuttals to case briefs may be filed no later than five days after the due date for the case briefs.[8] All rebuttal comments must be limited to comments raised in the case briefs.[9]

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement & Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice.[10] Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. Oral argument presentations will be limited to issues raised in the briefs. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a date and time to be determined.[11] Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

All submissions, with limited exceptions, must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, ACCESS, by 5 p.m. Eastern Time (ET) on the due date. Documents excepted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with the APO/Dockets Unit in Room 18022, and stamped with the date and time of receipt by 5 p.m. ET on the due date.[12]

Unless extended, the Department intends to issue the final results or final rescission of this NSR, which will include the results of its analysis of issues raised in any briefs received, no later than 90 days after the date these preliminary results of review are issued pursuant to section 751(a)(2)(B)(iii) of the Act.

Assessment Rates

If the Department proceeds to a final rescission of Yuqiao's NSR, the assessment rate to which Yuqiao's shipments will be subject will not be affected by this review. However, the Department initiated an administrative review of the antidumping duty order on certain preserved mushrooms from the PRC covering numerous exporters, including Yuqiao, for the period of February 1, 2015 through January 31, 2016, which overlaps with the period covered by this NSR.[13] Thus, if the Department proceeds to a final rescission, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend subject merchandise exported by Yuqiao and entered into the United States during the period February 1, 2015 through January 31, 2016 until CBP receives instructions relating to the administrative review of this order covering that period.

If the Department does not proceed to a final rescission of this new shipper review, pursuant to 19 CFR 351.212(b)(1), we will calculate an importer-specific (or customer-specific) assessment rate based on the final results of this review. However, pursuant to the Department's refinement to its assessment practice in non-market economy cases,[14] for entries that were not reported in the U.S. sales database submitted by Yuqiao, the Department will instruct CBP to liquidate such entries at the PRC-wide rate.

Cash Deposit Requirements

Effective upon publication of the final rescission or the final results of this NSR, the Department will instruct CBP to discontinue the option of posting a bond or security in lieu of a cash deposit for entries of Yuqiao's subject merchandise. If the Department proceeds to a final rescission of this NSR, the cash deposit rate will continue to be the PRC-wide rate for Yuqiao, because the Department will not have determined an individual margin of dumping for Yuqiao. If the Department does not proceed to a final rescission in this NSR, the Department will instruct CBP to collect cash deposits, effective upon the publication of the final results, at the rate established therein.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties

[5] *See* Memorandum to Scot Fullerton, Director, Office VI, AD/CVD Operations, from Michael J. Heaney, Senior International Trade Analyst, Office VI, AD/CVD Operations, entitled ''2015 Antidumping Duty New Shipper Review of Certain Preserved Mushrooms From the People's Republic of China: Preliminary *Bona Fide* Sales Analysis for Linyi Yuqiao International Trade Co., Ltd.'' (*Bona Fide* Sales Analysis Memorandum), dated concurrently with this notice.

[6] *See, generally, Bona Fide* Sales Analysis Memorandum.

[7] *See* 19 CFR 351.309(c)(1)(ii).

[8] *See* 19 CFR 351.309(d)(1).

[9] *See* 19 CFR 351.309(d)(2).

[10] *See* 19 CFR 351.310(c).

[11] *See* 19 CFR 351.310(d).

[12] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

[13] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 81 FR 20324, 20338–20240 (April 7, 2016).

[14] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694, 65694–95 (October 24, 2011).

occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these results in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act.

Dated: August 2, 2016.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I—List of Sections in the Preliminary Decision Memorandum

1. Summary
2. Background
3. Scope of the Order
4. Discussion of the Methodology
5. Conclusion

[FR Doc. 2016–18779 Filed 8–5–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 84–27A12]

Export Trade Certificate of Review

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of Application for an Amended Export Trade Certificate of Review by Northwest Fruit Exporters, Application No. 84–27A12.

SUMMARY: The Secretary of Commerce, through the International Trade Administration, Office of Trade and Economic Analysis (OTEA), has received an application for an amended Export Trade Certificate of Review (''Certificate'') from Northwest Fruit Exporters. This notice summarizes the proposed amendment and seeks public comments on whether the amended Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Joseph E. Flynn, Director, Office of Trade and Economic Analysis, International Trade Administration, by telephone at (202) 482–5131 (this is not a toll-free number) or email at *etca@trade.gov.*

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from State and Federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Export Trading Company Act of 1982 and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked as privileged or confidential business information will be deemed to be nonconfidential.

An original and five (5) copies, plus two (2) copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Export Trading Company Affairs, International Trade Administration, U.S. Department of Commerce, Room 21028, Washington, DC 20230.

Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the amended Certificate. Comments should refer to this application as ''Export Trade Certificate of Review, application number 84–27A12.''

A summary of the current application follows.

Summary of the Application

Applicant: Northwest Fruit Exporters, 105 South 18th Street, Suite 227, Yakima, WA 98901.

Contact: Fred Scarlett, Manager, (509) 576–8004.

Application No.: 84–27A12.

Date Deemed Submitted: July 25, 2016.

Proposed Amendment: Northwest Fruit Exporters seeks to amend its Certificate as follows:

1. Add the following companies as new Members of the Certificate within the meaning of section 325.2(l) of the Regulations (15 CFR 325.2(l)), for Export Trade Activities and Methods of Operation relating to apples (A):

- Legacy Fruit Packers LLC—Wapato, WA

2. Remove the following companies as Members of the Certificate:

- Garrett Ranches Packing—Wilder, ID
- Ron Lefore d/b/a LeFore Apple Farms—Milton-Freewater, OR

3. Change the product listing for the following existing Members:

- From pears (P) to apples and pears (A,P) for Underwood Fruit & Warehouse Co.—Bingen, WA

4. Update the city listing for the following existing Members:

- Remove Brewster, WA from Custom Apple Packers, Inc.
- Change location of L&M Companies from Selah to Union Gap, WA

Northwest Fruit Exporter's Export Trade Certificate of Review complete amended membership is listed below:

1. Allan Bros., Naches, WA
2. AltaFresh L.L.C. dba Chelan Fresh Marketing, Chelan, WA
3. Apple House Warehouse & Storage, Inc., Brewster, WA
4. Apple King, L.L.C., Yakima, WA
5. Auvil Fruit Co., Inc., Orondo, WA
6. Baker Produce, Inc., Kennewick, WA
7. Blue Bird, Inc., Peshastin, WA
8. Blue Star Growers, Inc., Cashmere, WA
9. Borton & Sons, Inc., Yakima, WA
10. Brewster Heights Packing & Orchards, LP, Brewster, WA
11. Broetje Orchards LLC, Prescott, WA
12. C.M. Holtzinger Fruit Co., Inc., Yakima, WA
13. Chelan Fruit Cooperative, Chelan, WA
14. Chiawana, Inc. dba Columbia Reach Pack, Yakima, WA
15. Columbia Fruit Packers, Inc., Wenatchee, WA
16. Columbia Fruit Packers/Airport Division, Wenatchee, WA
17. Columbia Marketing International Corp., Wenatchee, WA
18. Columbia Valley Fruit, L.L.C., Yakima, WA
19. Congdon Packing Co. L.L.C., Yakima, WA
20. Conrad & Adams Fruit L.L.C., Grandview, WA
21. Cowiche Growers, Inc., Cowiche, WA
22. CPC International Apple Company, Tieton, WA
23. Crane & Crane, Inc., Brewster, WA
24. Custom Apple Packers, Inc., Quincy, and Wenatchee, WA
25. Diamond Fruit Growers, Odell, OR
26. Domex Superfresh Growers LLC, Yakima, WA
27. Douglas Fruit Company, Inc., Pasco, WA
28. Dovex Export Company, Wenatchee, WA
29. Duckwall Fruit, Odell, OR
30. E. Brown & Sons, Inc., Milton-Freewater, OR
31. Evans Fruit Co., Inc., Yakima, WA
32. E.W. Brandt & Sons, Inc., Parker, WA
33. Frosty Packing Co., LLC, Yakima, WA
34. G&G Orchards, Inc., Yakima, WA

35. Gilbert Orchards, Inc., Yakima, WA
36. Gold Digger Apples, Inc., Oroville, WA
37. Hansen Fruit & Cold Storage Co., Inc., Yakima, WA
38. Henggeler Packing Co., Inc., Fruitland, ID
39. Highland Fruit Growers, Inc., Yakima, WA
40. HoneyBear Growers, Inc., Brewster, WA
41. Honey Bear Tree Fruit Co., LLC, Wenatchee, WA
42. Hood River Cherry Company, Hood River, OR
43. Ice Lakes LLC, East Wenatchee, WA
44. JackAss Mt. Ranch, Pasco, WA
45. Jenks Bros Cold Storage & Packing Royal City, WA
46. Kershaw Fruit & Cold Storage, Co., Yakima, WA
47. L&M Companies, Union Gap, WA
48. Larson Fruit Co., Selah, WA
49. Legacy Fruit Packers LLC, Wapato, WA
50. Manson Growers Cooperative, Manson, WA
51. Matson Fruit Company, Selah, WA
52. McDougall & Sons, Inc., Wenatchee, WA
53. Monson Fruit Co. Selah, WA
54. Morgan's of Washington dba Double Diamond Fruit, Quincy, WA
55. Naumes, Inc., Medford, OR
56. Northern Fruit Company, Inc., Wenatchee, WA
57. Olympic Fruit Co., Moxee, WA
58. Oneonta Trading Corp., Wenatchee, WA
59. Orchard View Farms, Inc., The Dalles, OR
60. Pacific Coast Cherry Packers, LLC, Yakima, WA
61. Peshastin Hi-Up Growers, Peshastin, WA
62. Phillippi Fruit Company, Inc., Wenatchee, WA
63. Piepel Premium Fruit Packing LLC, East Wenatchee, WA
64. Polehn Farm's Inc., The Dalles, OR
65. Price Cold Storage & Packing Co., Inc., Yakima, WA
66. Pride Packing Company, Wapato, WA
67. Quincy Fresh Fruit Co., Quincy, WA
68. Rainier Fruit Company, Selah, WA
69. Roche Fruit, Ltd., Yakima, WA
70. Sage Fruit Company, L.L.C., Yakima, WA
71. Smith & Nelson, Inc., Tonasket, WA
72. Stadelman Fruit, L.L.C., Milton-Freewater, OR, and Zillah, WA
73. Stemilt Growers, LLC, Wenatchee, WA
74. Strand Apples, Inc., Cowiche, WA
75. Symms Fruit Ranch, Inc., Caldwell, ID
76. The Dalles Fruit Company, LLC, Dallesport, WA
77. Underwood Fruit & Warehouse Co., Bingen, WA
78. Valicoff Fruit Co., Inc., Wapato, WA
79. Valley Fruit III L.L.C., Wapato, WA
80. Washington Cherry Growers, Peshastin, WA
81. Washington Fruit & Produce Co., Yakima, WA
82. Western Sweet Cherry Group, LLC, Yakima, WA
83. Western Traders LLC, E. Wenatchee, WA
84. Whitby Farms, Inc. dba: Farm Boy Fruit Snacks LLC, Mesa, WA
85. Yakima Fresh, Yakima, WA
86. Yakima Fruit & Cold Storage Co., Yakima, WA
87. Zirkle Fruit Company, Selah, WA

Dated: August 3, 2016.

Joseph E. Flynn,

Director, Office of Trade and Economic Analysis, International Trade Administration.

[FR Doc. 2016–18755 Filed 8–5–16; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE780

Pacific Fishery Management Council; Public Meetings and Hearings

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

ACTION: Notice of public meetings and hearings.

SUMMARY: The Pacific Fishery Management Council (Pacific Council) has begun the five-year review of its groundfish trawl catch share program, as required by the Magnuson Stevens Fishery Management and Conservation Act. It will also begin a concurrent review of its groundfish inter-sector allocations. This document announces the dates and locations of Pacific Council public hearings that will inform Council decisions on the content and focus for the review (review plan).

DATES: The hearings will begin on Wednesday, August 31, 2016, and end on Thursday, September 29, 2016. Written comments must be received by 5 p.m. on October 18, 2016. For specific hearing dates and times, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: Written comments should be sent to Mr. Herb Pollard, Chair, Pacific Fishery Management Council, 7700 NE. Ambassador Place, Suite 101, Portland, OR 97220–1384, telephone: 503–820–2280 (voice) or 503–820–2299 (fax). Comments can also be submitted via email at *PFMC.comments@noaa.gov.* For specific hearing locations, see **SUPPLEMENTARY INFORMATION**.

Council Address: Pacific Fishery Management Council, 7700 NE. Ambassador Place, Suite 101, Portland, OR 97220.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Seger, telephone: 503–820–2416.

SUPPLEMENTARY INFORMATION:

Agenda

Information on the review process is available from the Council Web site (*www.pcouncil.org*) on the five-year review Web page (*http://tinyurl.com/hjkmvw6*). Comment from the hearings will be summarized and provided to the Council at its November 2016 meeting, at which time the Council will finalize its review plan. Written comments may also be submitted and should be received by 5 p.m. on October 18, 2016, in order to be considered at the November Council meeting. Results of the catch share program review are expected to be published in the following year.

Thursday, August 31, 2016, Through Thursday, September 29, 2016

Public hearings will be held to receive comments on the content and focus for the review. Written comments received at the public hearings and a summary of oral comments at the hearings will be provided to the Pacific Council at its November 2016 meeting.

All public hearings begin at 7 p.m. at the following locations:

1. August 31, 2016: Marriott Courtyard, San Luis Obispo Room, 1605 Calle Joaquin Road, San Luis Obispo, CA 93405, telephone 805–786–4200.

2. September 1, 2016: Half Moon Bay Lodge, Club Room, 2400 Cabrillo Hwy. South, Half Moon Bay, CA 94019, telephone 650–726–9000.

3. September 6, 2016: City of Fort Bragg. Town Hall, 363 N. Main Street, Fort Bragg CA 95437, telephone 707–961–2823.

4. September 7, 2016: Red Lion Eureka, Evergreen Room, 1929 Fourth Street, Eureka, CA 95501, telephone 707–445–0844.

5. September 8, 2016: Red Lion Hotel, South Umpqua Room, 1313 North Bayshore Drive, Coos Bay, OR 97420, telephone 541–267–4141.

6. September 12, 2016: Chateau Westport, Beach Room, 710 West Hancock, Westport, WA 98595, telephone 360–268–9101.

7. September 13, 2016: Sheraton Seattle Hotel, Diamond Room, 1400 Sixth Avenue, Seattle, WA 98101, telephone 206–621–9000.

8. September 28, 2016: Comfort Inn and Suites, Meeting Room (no name), 3420 Leif Erickson Drive, Astoria, OR 97103, telephone 503–325–2000.

9. September 29, 2016: Agate Beach Inn, Jasper Room, 3019 N. Coast Hwy., Newport, OR 97365, telephone 541–265–9411.

No actions will be taken at the hearings.

Special Accommodations

These public hearings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt, at 503–820–2280 (voice), or 503–820–2299 (fax) at least five days prior to the meeting date.

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

Dated: August 2, 2016.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–18692 Filed 8–5–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE473

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to an Anchor Retrieval Program in the Chukchi and Beaufort Seas

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

ACTION: Notice; issuance of an incidental take authorization (IHA).

SUMMARY: In accordance with regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an IHA to Fairweather, LLC (Fairweather) to take, by harassment, small numbers of 12 species of marine mammals incidental to an anchor retrieval program in the Chukchi and Beaufort seas, Alaska, during the open-water season of 2016.

DATES: This authorization is effective from July 1, 2016 through October 31, 2016.

FOR FURTHER INFORMATION CONTACT: Shane Guan, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring, and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Section 101(a)(5)(D) of the MMPA establishes a 45-day time limit for NMFS's review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the public comment period, NMFS must either issue or deny the authorization.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Summary of Request

On February 2, 2016, NMFS received an application from Fairweather for the taking of marine mammals incidental to conducting anchor retrieval activities in the U.S. Chukchi and Beaufort seas. After receiving NMFS comments, Fairweather made revisions and updated its IHA application and marine mammal mitigation and monitoring plan on February 8, 2016. NMFS determined the IHA application adequate and complete on February 8, 2016. NMFS published a notice making preliminary determinations and proposing to issue an IHA on May 19, 2016 (81 FR 31594). The notice initiated a 30-day comment period.

Fairweather proposes to retrieve anchor equipment left by Shell Offshore, Inc. (Shell) during its 2012 and 2015 exploration drilling programs in the U.S. Chukchi and Beaufort seas. The proposed activity would occur between July 1 and October 31, 2016. Noise generated from anchor handling activities and vessel's dynamic positioning thrusters could impact marine mammals in the vicinity of the activities. Take, by Level B harassments, of individuals of eight species of marine mammals may result from the specified activity.

Description of the Specified Activity

A detailed description of the Fairweather's anchor retrieval program is provided in the **Federal Register** notice for the proposed IHA (81 FR 31594; May 19, 2016). Since that time, no changes have been made to the proposed construction activities. Therefore, a detailed description is not provided here. Please refer to that **Federal Register** notice for the description of the specific activity.

Comments and Responses

A notice of NMFS' proposal to issue an IHA to Fairweather was published in the **Federal Register** on May 19, 2016 (81 FR 31594). That notice described, in detail, Fairweather's activity, the marine mammal species and subsistence activities that may be affected by the proposed anchor retrieval program, and the anticipated effects on marine mammals and subsistence activities. During the 30-day public comment period, NMFS received comments from the Marine Mammal Commission (Commission) and the Alaska Oil and Gas Association (AOGA). Specific comments and responses are provided below.

Comment 1: The Commission states that since anchor handling would take 7 days at each site, and there are 5 sites,

thus marine mammal takes should be based on a total of 35 days, instead of an average of 3.5 days per site with a total of 17.5 days.

Response: NMFS disagrees with the Commission's assessment. As stated in Fairweather's IHA application and the **Federal Register** notice for the proposed IHA (81 FR 31594; May 19, 2016), anchor handling at each site takes 2–7 days, with machinery operating at full power capacity only part of these days. Therefore, our analysis used an average of 3.5 days per site for anchor handling at each site. We consider this to be a more realistic scenario. In addition, because some of these days the shipboard machinery (including dynamic positioning thruster) will not be operating at full power, the 120-dB ensonified area is expected to be much smaller than expected. Therefore, we believe using a total of 17.5 days based on averaged operation days of 3.5 days per site provides better take estimates of marine mammals.

Comment 2: The Commission states that the method used to estimate the numbers of takes, which sums fractions of takes for each species across days, does not account for NMFS's 24-hour reset policy. The Commission argues that although this approach is more accurate in a pure mathematical sense, it ultimately negates the intent of a 24-hour reset. The Commission states that instead of summing fractions of takes across days and then rounding to estimate total takes, NMFS should have calculated a daily take estimate (determined by multiplying the estimated density of marine mammals in the area by the daily ensonified area) and then rounding that to a whole number before multiplying it by the number of days that activities would occur. Thus, the Commission recommends that NMFS (1) follow its policy of a 24-hour reset for enumerating the number of each species that could be taken, (2) apply standard rounding rules before summing the numbers of estimated takes across days, and (3) for species that have the potential to be taken but model-estimated or calculated takes round to zero, use group size to inform the take estimates—these methods should be used consistently for all future incidental take authorizations.

Response: NMFS disagrees with the Commission's assessment and recommendation. While for certain projects NMFS has rounded to the whole number for daily takes, the circumstance for projects like this one when the objective of take estimation is to provide more accurate assessments for potential impacts to marine mammals for the entire project, the rounding in the middle of calculation will introduce large errors into the process. In addition, while NMFS uses a 24-hour reset for its take calculation in impact assessments, there is no need for daily (24-hour) rounding in this case because there is no daily limit of takes, so long as total authorized takes of marine mammal are not exceeded.

Comment 3: The Commission recommends that NMFS incorporate the peer-review panel's recommendations into the authorization.

Response: NMFS convened a peer-review panel to review Fairweather's marine mammal monitoring and mitigation measure. The peer-review panel met in March and provided its report to NMFS in mid-April. The peer-review panel report contains recommendations applicable to Fairweather's monitoring plans. Specifically, the panel recommended that Fairweather employ passive acoustic monitoring (PAM) in the vicinity of the proposed anchor handling activities to collect better data on the presence, calling behavior and possible impacts to marine mammals for all the locations where anchors are deployed. In addition, the peer-review panel recommends that Fairweather coordinate closely with the communities nearest to each of the locations where it plans to retrieve anchors to avoid the peak of marine mammals' presence and subsistence hunting.

NMFS discussed the recommendations with Fairweather and determined that the deployment of PAM devices in the vicinity of the anchor handling activities is not feasible because the anchor retrieval activity at each site would only take an average of 3.5 days, and none of the anchor retrieval vessels or the support vessel could be used to serve as a PAM platform during the operation. Deployment of bottom-mounted sensors for such a short duration would incur unreasonable expenses to such a small project. Nevertheless, Fairweather agreed and is required to coordinate closely with the subsistence communities nearest to each of the project site where it plans to retrieve anchors to ensure no unmitigable impact to subsistence use of marine mammals by these communities. A detailed description of the peer-review process and the panel's recommendation is presented in the *Monitoring Measure Peer Review* section below.

Comment 4: AOGA objects to the proposed vessel movement mitigation measures that will protect the North Pacific right whale and its critical habitat. These measures require Fairweather to (1) avoid transits within designated North Pacific right whale critical habitat; (2) if transit within North Pacific right whale critical habitat cannot be avoided, vessel operators are requested to observe the 10 kt (18.52 km/h) vessel speed restriction while with in North Pacific right whale habitat; and (3) within the North Pacific right whale critical habitat, all vessels keep a distance of 2,625 ft (800 m) away from any observed North Pacific right whales and avoid approaching whales head-on. AOGA reasons that in order for NMFS to require this mitigation measure there must be a reasonable expectation of take, and that existing measures for vessels transits, plus decades of activity transits have not resulted in vessel strikes of North Pacific right whales (NPRW).

Response: Although the density of NPRW is very low, even in its critical habitat, the additional measures will ensure that a lethal take of this species can be completely avoided. Fairweather voluntarily included those mitigation measures in its proposed action as a precautionary move to minimize the risk of a vessel strike. Regardless of how small the risk of a strike may be, Fairweather's decision reflects the potentially severe consequences to an already very small population should a strike occur. NMFS discussed this measure with Fairweather, and the company is committed to the measures that afford additional protection to this critically endangered species. Therefore, these measures are reflected in the IHA issued to Fairweather.

Description of Marine Mammals in the Area of the Specified Activity

The Chukchi and Beaufort Seas support a diverse assemblage of marine mammals. Table 2 lists the 12 marine mammal species under NMFS jurisdiction with confirmed or possible occurrence in the proposed project area.

TABLE 2—MARINE MAMMAL SPECIES WITH CONFIRMED OR POSSIBLE OCCURRENCE IN THE PROPOSED ACTION AREA

Species/Stocks	Conservation status	Habitat	Population estimate
Beluga whale (*Delphinapterus leucas*)—Eastern Chukchi Stock.	ESA—Not Listed	Offshore, coastal, ice edges	3,710
Beluga whale (*Delphinapterus leucas*)—Beaufort Stock.	ESA—Not Listed	Offshore, coastal, ice edges	32,453
Killer whale (*Orcinus orca*)	ESA—Not Listed	Widely distributed	2,084
Harbor porpoise (*Phocoena phocoena*)—Bering Sea Stock.	ESA—Not Listed	Coastal, inland waters, shallow offshore waters.	48,215
Bowhead whale (*Balaena mysticetus*)—Western Arctic Stock.	ESA—Endangered	Pack ice, coastal	13,796
Gray whale (*Eschrichtius robustus*)—Eastern Pacific Stock.	ESA—Not Listed	Coastal, lagoons, shallow offshore waters.	19,126
Minke whale (*Balaenoptera acutorostrata*).	ESA—Not Listed	Shelf, coastal	810
Humpback whale (*Megaptera novaeangliae*)—Western North Pacific Stock.	ESA—Endangered	Shelf slope, mostly pelagic	6,000–14,000
Fin whale (*Balaenoptera physalus*)—Northeast Pacific Stock.	ESA—Endangered	Shelf, coastal	1,368
Bearded seal (*Erignathus barbatus*)	ESA—Not listed	Pack ice, shallow offshore waters	155,000
Spotted seal (*Phoca largha*)	ESA—(Arctic DPS Not Listed)	Pack ice, coastal haul outs, offshore	391,000
Ringed seal (*Pusa hispida*)	ESA—Not listed	Land-fast & pack ice, offshore	300,000
Ribbon seal (*Histriophoca fasciata*)	ESA—Not Listed	Pack ice, offshore	90,000–100,000

Among these species, bowhead, humpback, and fin whales are listed as endangered or threatened species under the Endangered Species Act (ESA). In addition, walrus and the polar bear could also occur in the U.S. Chukchi and Beaufort seas; however, these species are managed by the U.S. Fish and Wildlife Service (USFWS) and are not considered in this Notice of IHA.

Of all these species, bowhead and beluga whales and ringed, bearded, and spotted seals are the species most frequently sighted in the proposed activity area. The proposed action area in Chukchi and Beaufort seas also include areas that have been identified as important for bowhead whale reproduction during summer and fall and for beluga whale feeding and reproduction in summer.

Most spring-migrating bowhead whales would likely pass through the Chukchi Sea prior to the start of the planned anchor handling activities. However, a few whales that may remain in the Chukchi Sea during the summer could be encountered during the anchor handling activities or by transiting vessels. More encounters with bowhead whales would be likely to occur during the westward fall migration in late September through October. Most bowheads migrating in September and October appear to transit across the northern portion of the Chukchi Sea to the Chukotka coast before heading south toward the Bering Sea (Quakenbush *et al.,* 2009). Some of these whales have traveled well north of the planned operations, but others have passed near to, or through, the proposed project area.

Two stocks of beluga whales occur in the proposed anchor retrieving project areas: The Eastern Chukchi stock and the Beaufort Sea stock. The Eastern Chukchi Sea belugas move into coastal areas, including Kasegaluk Lagoon, in late June and animals are sighted in the area until about mid-July (Frost *et al.,* 1993). This movement indicated some overlap in distribution with the Beaufort Sea beluga whale stock during late summer. Summer densities of beluga whales in offshore waters are expected to be low, with somewhat higher densities in ice-margin and nearshore areas. If belugas are present during the summer, they are more likely to occur in or near the ice edge or close to shore during their northward migration. In the fall, beluga whale densities offshore in the Chukchi Sea are expected to be somewhat higher than in the summer because individuals of the eastern Chukchi Sea stock and the Beaufort Sea stock will be migrating south to their wintering grounds in the Bering Sea (Allen and Angliss 2014).

Ringed seals are year-round residents in the Bering Sea, Norton and Kotzebue Sounds, and throughout the Chukchi and Beaufort Seas and are the most frequently encountered seal in the area (Allen and Angliss 2015). They occur as far south as Bristol Bay in years of extensive ice coverage but are generally not abundant south of Norton Sound except in nearshore areas (Frost 1985). Ringed seals will likely be the most abundant marine mammal species encountered in the Chukchi Sea during anchor retrieval operations.

During spring when pupping, breeding, and molting occur, spotted seals are found along the southern edge of the sea ice in the Okhotsk and Bering seas (Quakenbush 1988; Rugh *et al.,* 1997). In late April and early May, adult spotted seals are often seen on the ice in female-pup or male-female pairs, or in male-female-pup triads. Sub-adults may be seen in larger groups of up to 200 animals. During the summer, spotted seals are found primarily in the Bering and Chukchi seas, but some range into the Beaufort Sea (Rugh *et al.,* 1997; Lowry *et al.,* 1998) from July until September. Spotted seals are expected to occur near the planned anchor handling activities in the Chukchi Sea, but they will likely be fewer in number than ringed seals.

Bearded seals occur over the continental shelves of the Bering, Chukchi, and Beaufort seas (Burns 1981b). During the summer period, bearded seals occur mainly in relatively shallow areas because they are predominantly benthic feeders (Burns 1981b). During winter, most bearded seals in Alaskan waters are found in the Bering Sea. From mid-April to June as the ice recedes, some of the bearded seals that overwinter in the Bering Sea migrate northward through the Bering Strait. During the summer they are found near the widely fragmented margin of sea ice covering the continental shelf of the Chukchi Sea and in nearshore areas of the central and western Beaufort Sea (Allen and Angliss 2015). Bearded seals are likely to be

encountered during anchor handling activities, and greater numbers of bearded seals are likely to be encountered if the ice edge occurs nearby.

Further information on the biology and local distribution of these species can be found in Fairweather's application (see **ADDRESSES**) and the NMFS Marine Mammal Stock Assessment Reports, which are available online at: *http://www.nmfs.noaa.gov/pr/sars/pdf/alaska2015_final.pdf.*

Potential Effects of the Specified Activity on Marine Mammals

The effects of the stressors associated with the specified activity (*e.g.,* acoustic effects of anchor retrieval, which include noises from dynamic positioning, winch operations, and other machinery operations) have the potential to result in harassment of marine mammals. The **Federal Register** notice for the proposed IHA (81 FR 31594, May 19, 2016) included a discussion of the effects of acoustic stimuli on marine mammals. That information is not repeated here. No instances of injury, serious injury, or mortality (Level A take) are expected as a result of the anchor retrieval activities, nor are any Level A take authorized by this IHA.

Anticipated Effects on Marine Mammal Habitat

The environmental effects of Fairweather's proposed anchor retrieval activity, which includes noise exposure to marine mammal prey species and physical disturbances of project locations, are discussed in the **Federal Register** notice for the proposed IHA (81 FR 31594, May 19, 2016). Therefore, that information is not repeated here.

Mitigation Measures

In order to issue an incidental take authorization under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses.

For the planned Fairweather open-water anchor retrieval operations in the Chukchi and Beaufort seas, Fairweather is required to implement the following mitigation measures to minimize the potential impacts to marine mammals in the project vicinity as a result of the activities. The primary purpose of these mitigation measures is to detect marine mammals and avoid vessel interactions during the anchor retrieval operation.

(a) Establishing and Monitoring Exclusion Zone for Anchor Retrieval and Ice Management

(1) Protected species observers (PSO) would establish and monitor a safety zone of 500 m for anchor retrieval activity and ice management. The modeled safety zone for anchor retrieval is 100 m from the source.

(2) When the vessel is positioned on-site, the PSOs will 'clear' the area by observing the 500m safety zone for 30 minutes; if no marine mammals are observed within those 30 minutes, anchor retrieval or ice management will commence.

(3) If a marine mammal(s) is observed within the 500 m of the anchor retrieval and/or ice management safety zone during the clearing, the PSOs will continue to watch until the animal(s) is gone and has not returned for 15 minutes if the sighting was a pinniped, or 30 minutes if it was a cetacean.

(4) Once the PSOs have cleared the area, anchor retrieval or ice management operations may commence.

(5) Should a marine mammal(s) be observed within or approaching the 500 m safety zone during the retrieval or ice management operations, the PSOs will monitor and carefully record any reactions observed.

(b) Establishing and Monitoring Exclusion Zone for Sonar Activity

Although NMFS does not expect marine mammals would be taken by high-frequency sonar used for locating anchors, at Fairweather's suggestion the following mitigation and monitoring measures related to sonar operations will be implemented.

(1) PSOs would establish and monitor an exclusion zone of 500 m for sonar activity. The modeled exclusion zone for sonar activity is 100 m from the source.

(2) Prior to starting the sonar activity, the PSOs will 'clear' the area by observing the 500 m exclusion zone for 30 minutes; if no marine mammals are observed within those 30 minutes, sonar activity will commence.

(3) If a marine mammal(s) is observed within the 500 m exclusion zone during the clearing, the PSOs will continue to watch until the animal(s) is gone and has not returned for 15 minutes if the sighting was a pinniped, or 30 minutes if it was a cetacean.

(4) Once the PSOs have cleared the area, sonar activity may commence.

(c) Establishing Zones of Influence (ZOIs)

PSOs would establish and monitor ZOIs where the received level is 120 dB during Fairweather's anchor retrieval operation and where the received level is 160 dB during sonar activity.

(d) Vessel Speed or Course Measures

If a marine mammal is detected outside the 500 m sonar exclusion zone for sonar activities or during transit between sites, based on its position and the relative motion, is likely to enter those zones, the vessel's speed and/or direct course may, when practical and safe, be changed. The marine mammal activities and movements relative to the vessels shall be closely monitored to ensure that the marine mammal does not approach within either zone. If the mammal appears likely to enter the respective zone, further mitigation actions will be taken, *i.e.,* either further course alterations or shut down in the case of the sonar. During actual anchor handling, the vessel is stationary on site.

In addition, the vessel shall reduce its speed to 5 kt (9.26 km/h) or lower when within 900 ft (274 m) of cetaceans or pinnipeds. Further, Fairweather shall avoid transits within designated NPRW critical habitat. If transit within NPRW critical habitat cannot be avoided, vessel operators are requested to exercise extreme caution and observe the of 10 kt (18.52 km/h) vessel speed restriction while within North Pacific right whale critical habitat. Within the NPRW critical habitat, all vessels shall keep 2,625 ft (800 m) away from any observed NPRW and avoid approaching whales head-on, consistent with vessel safety.

(e) Shutdown Measures

If an animal enters or is approaching the 500 m exclusion zone, sonar will be shut down immediately. Sonar activity will not resume until the marine mammal has cleared the exclusion zone. PSOs will also collect behavioral information on marine mammals beyond the exclusion zone.

Mitigation Conclusions

NMFS has carefully evaluated Fairweather's mitigation measures and considered a range of other measures in the context of ensuring that NMFS prescribes the means of effecting the least practicable impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another:

- The manner in which, and the degree to which, the successful implementation of the measures are

expected to minimize adverse impacts to marine mammals;

• The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and

• The practicability of the measure for applicant implementation.

Any mitigation measure(s) prescribed by NMFS should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed below:

1. Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).

2. A reduction in the numbers of marine mammals (total number or number at biologically important time or location) exposed to received levels of activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).

3. A reduction in the number of times (total number or number at biologically important time or location) individuals would be exposed to received levels of activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).

4. A reduction in the intensity of exposures (either total number or number at biologically important time or location) to received levels of activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing the severity of harassment takes only).

5. Avoidance or minimization of adverse effects to marine mammal habitat, paying special attention to the food base, activities that block or limit passage to or from biologically important areas, permanent destruction of habitat, or temporary destruction/disturbance of habitat during a biologically important time.

6. For monitoring directly related to mitigation—an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on our evaluation of the applicant's proposed measures, NMFS has determined that the proposed mitigation measures provide the means of effecting the least practicable impact on marine mammals species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance. Measures to ensure availability of such species or stock for taking for certain subsistence uses are discussed later in this document (see ''Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses'' section).

Monitoring and Reporting Measures

In order to issue an ITA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth ''requirements pertaining to the monitoring and reporting of such taking.'' The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for ITAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. Fairweather submitted a marine mammal monitoring plan as part of the IHA application.

Monitoring measures prescribed by NMFS should accomplish one or more of the following general goals:

1. An increase in our understanding of the likely occurrence of marine mammal species in the vicinity of the action, *i.e.,* presence, abundance, distribution, and/or density of species.

2. An increase in our understanding of the nature, scope, or context of the likely exposure of marine mammal species to any of the potential stressor(s) associated with the action (*e.g.* sound or visual stimuli), through better understanding of one or more of the following: The action itself and its environment (*e.g.* sound source characterization, propagation, and ambient noise levels); the affected species (*e.g.* life history or dive pattern); the likely co-occurrence of marine mammal species with the action (in whole or part) associated with specific adverse effects; and/or the likely biological or behavioral context of exposure to the stressor for the marine mammal (*e.g.,* age class of exposed animals or known pupping, calving or feeding areas).

3. An increase in our understanding of how individual marine mammals respond (behaviorally or physiologically) to the specific stressors associated with the action (in specific contexts, where possible, *e.g.,* at what distance or received level).

4. An increase in our understanding of how anticipated individual responses, to individual stressors or anticipated combinations of stressors, may impact either: The long-term fitness and survival of an individual; or the population, species, or stock (*e.g.* through effects on annual rates of recruitment or survival).

5. An increase in our understanding of how the activity affects marine mammal habitat, such as through effects on prey sources or acoustic habitat (*e.g.,* through characterization of longer-term contributions of multiple sound sources to rising ambient noise levels and assessment of the potential chronic effects on marine mammals).

6. An increase in understanding of the impacts of the activity on marine mammals in combination with the impacts of other anthropogenic activities or natural factors occurring in the region.

7. An increase in our understanding of the effectiveness of mitigation and monitoring measures.

8. An increase in the probability of detecting marine mammals (through improved technology or methodology), both specifically within the safety zone (thus allowing for more effective implementation of the mitigation) and in general, to better achieve the above goals.

Monitoring Measures

Monitoring will provide information on the numbers of marine mammals potentially affected by the anchor retrieval operation and facilitate real-time mitigation to prevent injury of marine mammals by vessel traffic. These goals will be accomplished in the Chukchi and Beaufort seas during 2016 by conducting vessel-based monitoring to document marine mammal presence and distribution in the vicinity of the operation area.

Visual monitoring by PSOs during anchor retrieval operation, and periods when the operation is not occurring, will provide information on the numbers of marine mammals potentially affected by the activity. Vessel-based PSOs onboard the vessels will record the numbers and species of marine mammals observed in the area and any observable reaction of marine mammals to the anchor retrieval operation in the Chukchi and Beaufort seas.

Visual-Based PSOs

Vessel-based monitoring for marine mammals would be done by trained PSOs throughout the period of anchor retrieval operation. The observers would monitor the occurrence of marine mammals onboard vessels during all daylight periods during operation. PSO duties would include watching for and identifying marine mammals; recording their numbers, distances, and reactions to the survey operations; and documenting ''take by harassment.''

A sufficient number of PSOs would be required onboard each survey vessel to meet the following criteria:

• 100 percent monitoring coverage during all periods of anchor retrieval operations in daylight;
• Maximum of 4 consecutive hours on watch per PSO; and
• Maximum of 12 hours of watch time per day per PSO.

PSO teams will consist of Inupiat observers and experienced field biologists. Each vessel will have an experienced field crew leader to supervise the PSO team. The total number of PSOs may decrease later in the season as the duration of daylight decreases.

(1) PSOs Qualification and Training

Lead PSOs and most PSOs would be individuals with experience as observers during marine mammal monitoring projects in Alaska or other offshore areas in recent years. New or inexperienced PSOs would be paired with an experienced PSO or experienced field biologist so that the quality of marine mammal observations and data recording is kept consistent.

Resumes for candidate PSOs would be provided to NMFS for review and acceptance of their qualifications. Inupiat observers would be experienced in the region and familiar with the marine mammals of the area. All observers would complete an observer training course designed to familiarize individuals with monitoring and data collection procedures.

(2) Specialized Field Equipment

The PSOs shall be provided with Fujinon 7 x 50 or equivalent binoculars for visual based monitoring onboard all vessels.

Laser range finders (Leica LRF 1200 laser rangefinder or equivalent) would be available to assist with distance estimation.

Marine Mammal Behavioral Response to Vessel Disturbance Study

As part of the Chukchi Sea Environmental Studies Program (CSESP), marine mammal biologists collected behavioral response data on walruses and seals to the vessel. The objectives of the observer on the CSESP program were to collect information on marine mammal distribution and density estimates using standard line-transect theory. In other words, the program was not a mitigation program for any particular seismic activity. Because the vessels in this program will be transiting a large portion of the time, Fairweather proposes to utilize this opportunity to collect information on responses of marine mammals, particularly walruses and seals, to vessel disturbance.

As part of the standard Fairweather's observation protocol, observers will record the initial and subsequent behaviors of marine mammals, a methodology they refer to as 'focal following.' Marine mammals will be monitored and observed until they disappear from the PSO's view (PSOs may have to follow the marine mammals by moving to new locations in order to keep the marine mammals in constant view). Observers will also record any perceived reactions that marine mammals may have in response to the vessel. When following the animal observers will use either a notebook or voice recorder to note any changes in behavior and the time when these changes occur. Time of first observation, time of changes in behavior, and time last seen will be recorded. Behaviors and changes in behaviors of marine mammals will be recorded as long as they are in view of the boat. After the animal is out of sight, PSOs will summarize the observation in the notes field of the electronic data collection platform. It may be difficult to find the animal being followed after it dives and if this happens, PSO will stop focal follow observation.

For large groups of marine mammals where it is difficult to monitor each animal, one or more focal animals, (*e.g.,* cow/calf pair, sub-adult female, adult male, etc.) will be chosen to monitor until it is no longer observable. For a sighting with more than one animal, the most common behavior of the group will be recorded. Focal animals will be chosen without bias in relation to age and sex, but as observations accumulate and specific age/sex categories are underrepresented, focal animals may be chosen from those underrepresented categories, if possible.

A separate section in the 90-day report (see below) will be provided with a summary of results of vessel disturbance, with the ultimate goal of a peer-reviewed publication.

Reporting Measures

(1) Monitoring Reports

The results of Fairweather's anchor retrieval program monitoring reports would be presented in weekly, monthly, and 90-day reports, as required by NMFS under the proposed IHA. The initial final reports are due to NMFS within 90 days after the expiration of the IHA (if issued). The reports will include:

• Summaries of monitoring effort (*e.g.,* total hours, total distances, and marine mammal distribution through the study period, accounting for sea state and other factors affecting visibility and detectability of marine mammals);
• Summaries that represent an initial level of interpretation of the efficacy, measurements, and observations, rather than raw data, fully processed analyses, or a summary of operations and important observations;
• Information on distances marine mammals are sighted from operations and the associated noise isopleth for active sound sources (*i.e.,* anchor retrieval, ice management, side scan sonar);
• Analyses of the effects of various factors influencing detectability of marine mammals (*e.g.,* sea state, number of observers, and fog/glare);
• Species composition, occurrence, and distribution of marine mammal sightings, including date, water depth, numbers, age/size/gender categories (if determinable), group sizes, and ice cover;
• Estimates of uncertainty in all take estimates, with uncertainty expressed by the presentation of confidence limits, a minimum-maximum, posterior probability distribution, or another applicable method, with the exact approach to be selected based on the sampling method and data available; and
• A clear comparison of authorized takes and the level of actual estimated takes.

The 90-day reports will be subject to review and comment by NMFS. Any recommendations made by NMFS must be addressed in the final report prior to acceptance by NMFS.

(2) Notification of Injured or Dead Marine Mammals

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by the IHA, such as a serious injury, or mortality (*e.g.,* ship-strike, gear interaction, and/or entanglement), Fairweather would immediately cease the specified activities and immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the Alaska Regional Stranding Coordinators. The report would include the following information:

• Time, date, and location (latitude/longitude) of the incident;
• Name and type of vessel involved;
• Vessel's speed during and leading up to the incident;
• Description of the incident;
• Status of all sound source use in the 24 hours preceding the incident;
• Water depth;
• Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);

• Description of all marine mammal observations in the 24 hours preceding the incident;
• Species identification or description of the animal(s) involved;
• Fate of the animal(s); and
• Photographs or video footage of the animal(s) (if equipment is available).

Activities would not resume until NMFS is able to review the circumstances of the prohibited take. NMFS would work with Fairweather to determine necessary actions to minimize the likelihood of further prohibited take and ensure MMPA compliance. Fairweather would not be able to resume its activities until notified by NMFS via letter, email, or telephone.

In the event that Fairweather discovers a dead marine mammal and the lead PSO determines that the cause of the death is unknown and the death is relatively recent (*i.e.,* in less than a moderate state of decomposition as described in the next paragraph), Fairweather would immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the NMFS Alaska Stranding Hotline and/or by email to the Alaska Regional Stranding Coordinators. The report would include the same information identified in the paragraph above. Activities would be able to continue while NMFS reviews the circumstances of the incident. NMFS would work with Fairweather to determine whether modifications in the activities are appropriate.

In the event that Fairweather discovers a dead marine mammal, and the lead PSO determines that the death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), Fairweather would report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the NMFS Alaska Stranding Hotline and/or by email to the Alaska Regional Stranding Coordinators, within 24 hours of the discovery. Fairweather would provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network. Fairweather can continue its operations under such a case.

Monitoring Plan Peer Review

The MMPA requires that monitoring plans be independently peer reviewed ''where the proposed activity may affect the availability of a species or stock for taking for subsistence uses'' (16 U.S.C. 1371(a)(5)(D)(ii)(III)). Regarding this requirement, NMFS' implementing regulations state, ''Upon receipt of a complete monitoring plan, and at its discretion, [NMFS] will either submit the plan to members of a peer review panel for review or within 60 days of receipt of the proposed monitoring plan, schedule a workshop to review the plan'' (50 CFR 216.108(d)).

NMFS convened an independent peer review panel to review Fairweather's Marine Mammal Monitoring and Mitigation Plan (4MP) for the planned anchor retrieval operation in the Chukchi and Beaufort seas. The panel met via web conference in early March 2016, and provided comments to NMFS in April 2016. The full panel report can be viewed online at: *http://www.nmfs.noaa.gov/pr/permits/incidental/research.htm.*

NMFS provided the panel with Fairweather's IHA application and monitoring plan and asked the panel to answer the following questions:

1. Will the applicant's stated objectives effectively further the understanding of the impacts of their activities on marine mammals and otherwise accomplish the goals stated above? If not, how should the objectives be modified to better accomplish the goals above?

2. Can the applicant achieve the stated objectives based on the methods described in the plan?

3. Are there technical modifications to the proposed monitoring techniques and methodologies proposed by the applicant that should be considered to better accomplish their stated objectives?

4. Are there techniques not proposed by the applicant (*i.e.,* additional monitoring techniques or methodologies) that should be considered for inclusion in the applicant's monitoring program to better accomplish their stated objectives?

5. What is the best way for an applicant to present their data and results (formatting, metrics, graphics, etc.) in the required reports that are to be submitted to NMFS (*i.e.,* 90-day report and comprehensive report)?

The peer-review panel report contains recommendations applicable to Fairweather's monitoring plans. Specifically, the panel recommended that Fairweather employ PAM in the vicinity of the proposed anchor handling activities to collect better data on the presence, calling behavior and possible impacts to marine mammals for all the locations where anchors are deployed. In addition, although not requested, the peer-review panel recommends that Fairweather coordinate closely with the communities nearest to each of the locations where it plans to retrieve anchors to avoid the peak of marine mammals' presence and subsistence hunting.

NMFS discussed the peer review panel report and its recommendation of conducting PAM in the vicinity of anchor retrieving sites with Fairweather and considers this recommendation is not practicable for Fairweather's anchor retrieving operations. As discussed in the **Federal Register** for the proposed IHA (81 FR 31594, May 19, 2016), the duration of activities in each area is projected to be only 1–3 days for complete anchor recovery (up to 7 as a very conservative estimate), with only ~20 minutes per system being the loud ''unseating'' portion. At the Sivulliq site, which has the highest number of anchor systems (12), the total ''unseating'' time would be 4 hours, occurring in 12 x 20-minute bursts. Because of this short duration, particularly of the sound with the largest potential for impacts to marine mammals, NMFS does not think that PAM is warranted. Moreover, deploying and recovering PAM equipment for such short durations only prolongs the amount of time the vessels are in each project area, thus increasing the impacts on the animals. Additionally, deploying PAM equipment for only 2 days will not greatly expand the body of knowledge about marine mammal acoustics in the Chukchi and Beaufort Seas, nor will it be comparable to previous studies in the area. Lastly, unless PAM monitoring is real-time, it is not a useful tool for mitigation. The only way for it to be real-time would be to have several smaller vessels on the project with the PAM equipment (at which point we would employ visual PSOs), but this option is not practical or reasonable for the small scale of this project

For close coordination with subsistence communities near the anchor retrieval locations, Fairweather states that it is committed to working very closely with the communities surrounding its activities. Fairweather has conducted meetings (either via teleconference in-person) with representatives from Kotzebue, Pt. Hope, Pt. Lay, Wainwright, Barrow, Nuiqsut, and Kaktovik. Fairweather will have experienced Inupiat Communicators/Observers (ICOs) onboard each of the vessels as liaisons to the communities from all communities. As part of the pre-season planning and safety seminar, whaling captains and members of Alaska Eskimo Whaling Commission will be presenting

on their culture and traditional knowledge to Fairweather.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Takes by Level B harassments of some species are anticipated as a result of Fairweather's proposed anchor retrieval operation. NMFS expects marine mammal takes could result from noise propagation from anchor retrieving activities, which includes the operation of dynamic thrusters and other machinery noises generated from anchor retrieving using winch and steel cables. NMFS does not expect marine mammals would be taken by collision with vessels, because the vessels will be moving at low speeds, and PSOs on the vessels will be monitoring for marine mammals and will be able to alert the vessels to avoid any marine mammals in the area.

For non-impulse sounds, such as those produced by the dynamic positioning thrusters and anchor handling during Fairweather's anchor retrieval operation, NMFS uses the 180 and 190 dB (rms) re 1 µPa isopleth to indicate the onset of Level A harassment for cetaceans and pinnipeds, respectively; and the 120 dB (rms) re 1 µPa isopleth for Level B harassment of all marine mammals.

The estimates of the numbers of each species of marine mammal that could potentially be exposed to sound associated with the anchor retrieval activity are calculated by multiplying the area of ensonified areas by animal densities. Specifically, the ensonified area for anchor retrieving activities is the area where received noise levels are above 120 dB, during the periods when these activities would be occurring. For the 2015 IHA application for Shell's exploration drilling in the Chukchi Sea (Shell 2015), JASCO modeled the anchor handling activity using their estimated distance to 120 dB isopleths at 14,000 m (JASCO 2013). This yields an estimated 120 dB ensonified area of 615 km^2.

The duration of sound-producing activity was calculated for each site. Although each anchor site has different configurations and numbers of anchors, Fairweather assumes it would take up to seven days per site to remove all anchors. Because the vessels will not be operating at full power during the entire time, Fairweather assumes half of the time (3.5 days) will be exceeding 120 dB. With five (5) anchor sites, this results in 17.5 days of anchor handling activity that may result in disturbance.

Description of the Sound Sources

Anchor Retrieving: During Shell's 2012 exploratory program in the Beaufort and Chukchi seas, sound source verifications (SSVs) were conducted of all activities conducted near both Burger and Sivulliq during the open-water season (LGL *et al.,* 2014). Detailed descriptions of the sound measurements and analysis methods can be found in Chapter 3 of the Shell 2012 90-day report to NMFS (Austin *et al.,* 2013). Anchor handling activities were measured at 143 dB at 860 m, the loudest activity was when ''seating'' the anchors (LGL *et al.,* 2014). It is assumed that the unseating of anchors will be similar in power needed from the vessel, so this source is suitable to estimate area ensonified. In the report, JASCO extrapolated the distance to the 120 dB threshold using a simple spreading loss of 19 log R, resulting in a radius of 14,000 m. This radius was used to estimate the area ensonified for this application.

Each anchor site has different configurations and numbers of anchors, but Fairweather assumes it will take up to seven (7) days per site to remove all anchors. Because the vessels will not be operating at full power during the entire time, Fairweather assumed half of the time (3.5 days) will be utilizing the high power to unseat anchors. With five (5) anchor sites, this results in 17.5 days of anchor handling activity that may result in disturbance.

Ice Management: Although highly unlikely, it may be necessary for ice management near Point Barrow while transiting to the Sivulliq site. During exploration drilling operations on the Burger Prospect in 2012, encroachment of sea ice required the Discoverer to temporarily depart the drill site. While it was standing by to the south, ice management vessels remained at the drill site to protect buoys that were attached to the anchors. Sounds produced by vessels managing the ice were recorded and the distance to the 120 dB re 1 µPa rms threshold was calculated to occur at 9.6 km (JASCO *et al.,* 2014). The total calculated ensonified area would be 290 km^2. Fairweather assumes that it could take place over a two (2) day period near Point Barrow.

Estimates of Marine Mammal Densities

The densities of marine mammals per species were calculated using 2009–2014 Aerial Surveys of Arctic Marine Mammals (ASAMM) data (*http://www.afsc.noaa.gov/nmml/cetacean/bwasp/index.php*) for bowhead, beluga, and gray whales in the Beaufort and Chukchi Seas and the Shell 2015 IHA application (Shell 2015) for all other species. The ASAMM density data are separated by depth, month, year, and location. The maximum calculated density with the depth strata in which the anchor system is located, the month (based on project activity timing), year (maximum of 2009–2014), and location (Chukchi vs. Beaufort) was used. For example, anchor handling only occurs in the summer, so density data from July and August were used. Side scan sonar may occur at the beginning and end of the project, so density data were separated into summer and fall. The Shell 2015 IHA included average and maximum density estimates for area, month, and location. The maximum calculated density was used in take estimates for these other species, regardless of area, month, or location.

Bowhead Whale

The bowhead whale density estimate is separated into the Chukchi and Beaufort seas based on the ASAMM study areas for aerial data collected 2008–2014. For each depth stratum, the maximum density estimate was used for summer and fall (Table 3). The bowhead whale densities in the Chukchi Sea range up to 0.0145 whales/km^2 in the summer and up to 0.1813 whales/km^2 in the fall, with the highest density for both seasons in the 50–200 m north region. The bowhead whale densities in the Beaufort Sea range up to 0.2883 whales/km^2 in the summer and up to 0.1310 whales/km^2 in the fall, both in the east 21–50 m region.

Beluga Whale

The beluga whale density estimate is separated into the Chukchi Sea and Beaufort Seas based on the ASAMM study areas for aerial data collected 2008–2014. For each depth stratum, the maximum density estimate was used for summer and fall (Table 3). The beluga whale densities in the Chukchi Sea range up to 0.1633 whales/km^2 in the summer in the 0–35 m north region and up to 0.0495 whales/km^2 in the fall in the 50–200 m north region. The beluga whale densities in the Beaufort Sea range up to 0.7924 whales/km^2 in the summer and up to 0.1425 whales/km^2

in the fall, both in the east 51–200 m east region.

Gray Whale

The gray whale density estimate is only in the Chukchi Sea based on the ASAMM study areas for aerial data collected 2008–2014. For each depth stratum, the maximum density estimate was used for summer and fall (Table 3). The gray whale densities in the Chukchi Sea range up to 0.2594 whales/km² in the summer and up to 0.1732 whales/km² in the fall, with the highest density for both seasons in the 50–200 m south region.

Other Cetaceans

Shell (2015) derived average and maximum density estimates for summer and fall from all available open-water research and monitoring data. For the purposes of this project, the maximum of the density estimates were used, regardless of whether the density was for summer or fall (Table 3). The maximum density is 0.0044 whales/km² for the harbor porpoise; 0.0004 whales/km² for the fin, humpback, and killer whale; and 0.0006 whales/km² for the minke whale.

Seals

Shell (2015) derived average and maximum density estimates for summer and fall from all available open-water research and monitoring data. For the purposes of this project, the maximum of the density estimates were used, regardless of whether the density was for summer or fall (Table 3). The maximum density is 0.6075 seals/km² for the ringed seal; 0.0203 seals/km² for the bearded seal; and 0.0122 seals/km² for the spotted seal.

TABLE 3—EXPECTED DENSITIES OF WHALES AND SEALS IN AREA OF THE CHUKCHI AND BEAUFORT SEAS

Species	Density (#/km²)			
	Chukchi Sea		Beaufort Sea	
	Summer	Fall	Summer	Fall
Bowhead whale	0.0145	0.1813	0.2883	0.1310
Beluga whale	0.1633	0.0495	0.7924	0.1425
Gray whale	0.2594	0.1732	NA	NA
Fin whale	0.0004		0	
Humpback whale	0.0004			
Minke whale	0.0006			
Harbor porpoise	0.0044			
Killer whale	0.0004			
Ringed seal	0.6075			
Bearded seal	0.0203			
Spotted seal	0.0122			

Calculation of Exposures

The estimates of the numbers of each marine mammal species that could potentially be exposed to sound associated with the anchor retrieval program, specifically the unseating of anchors, potential side scan sonar survey, and potential ice management, were estimated by multiplying the following three variables: (1) The area (in km²) of ensonification for disturbance for each activity, (2) the duration (in days) of the sound activity, and (3) the density (# of marine mammals/km²) as summarized in Table 3. It is important to note that these estimates are based on worst-case (and unlikely) sound levels and duration, and the maximum reported density estimates that do not account for the movement of animals near the anchor site during retrieval activities.

Since the two stocks occur in the Beaufort and Chukchi seas and one cannot distinguish them visually, the pooled densities in different seasons represent the presence of both stocks. The current abundance estimate for the Eastern Chukchi Sea Stock is 3,710 individuals and the abundance estimate for the Beaufort Sea Stock is 39,258 individuals (Allen and Angliss 2014), resulting in a combined total estimate of 42,968 individuals. The Eastern Chukchi Sea Stock is, therefore, considered to represent 8.6 percent of the combined population and the Beaufort Sea Stock is considered to represent 91.4 percent of the same. Therefore, the estimated takes of each beluga stock were based on the proportion of these stocks, with 8.6 percent account for the Eastern Chukchi Sea Stock, and 91.4 percent account for the Beaufort Sea Stock for both summer and fall.

A summary of the total number of estimated exposures per species, per sea, and per season is provided in Table 4.

TABLE 4—SUMMARY OF NUMBER OF MARINE MAMMALS POTENTIALLY EXPOSED TO LEVEL B HARASSMENT

Species	Chukchi Sea	Beaufort Sea	Abundance	Total	% of stock or population
Bowhead whale	37.41	620.51	19,534	658	3.37
Gray whale	197.41	0	20,990	197	0.94
Beluga whale (E. Chukchi stock)	33.55	19.98	3,710	54	1.47
Beluga whale (Beaufort stock)	356.56	212.38	39,258	569	1.45
Fin whale	3.68	0	10,103	4	0.04
Humpback whale	3.68	0.86	1,652	5	0.27
Minke whale	5.52	1.29	1,233	7	0.55
Harbor porpoise	40.46	9.48	48,215	50	0.10
Killer whale	3.68	0.86	2,347	4	0.19

TABLE 4—SUMMARY OF NUMBER OF MARINE MAMMALS POTENTIALLY EXPOSED TO LEVEL B HARASSMENT—Continued

Species	Chukchi Sea	Beaufort Sea	Abundance	Total	% of stock or population
Ringed seal	5,586.67	1,308.58	249,000	6,895	2.77
Bearded seal	186.68	43.73	155,000	231	0.15
Spotted seal	112.19	26.28	460,268	138	0.03

The estimated Level B harassment takes as a percentage of the marine mammal stock are less than 3.37 percent in all cases (Table 4). The highest percent of population estimated to be taken is 3.37 percent by Level B harassment of the bowhead whale.

Analysis and Determinations

Negligible Impact

Negligible impact is ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival'' (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of Level B harassment takes, alone, is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through behavioral harassment, NMFS must consider other factors, such as the likely nature of any responses (their intensity, duration, etc.), the context of any responses (critical reproductive time or location, migration, etc.), as well as the number and nature of estimated Level A harassment takes, the number of estimated mortalities, effects on habitat, and the status of the species.

To avoid repetition, this discussion of our analyses generally applies to all the species listed in Table 4, given that the anticipated effects of Fairweather's anchor retrieving operation on marine mammals (taking into account the proposed mitigation) are expected to be relatively similar in nature. Where there are meaningful differences between species or stocks, or groups of species, in anticipated individual responses to activities, impact of expected take on the population due to differences in population status, or impacts on habitat, they are pointed out below.

No injuries or mortalities are anticipated to occur as a result of Fairweather's anchor retrieving operation, and none are proposed to be authorized. Additionally, animals in the area are not expected to incur hearing impairment (*i.e.,* TTS or PTS) or non-auditory physiological effects. The takes that are anticipated and authorized are expected to be limited to short-term Level B behavioral harassment in the form of brief startling reaction and/or temporarily vacating the area.

Mitigation measures, such as controlled vessel speed and dedicated marine mammal observers, will ensure that takes are within the level being analyzed. In all cases, the effects are expected to be short-term, with no lasting biological consequences.

Of the 12 marine mammal species likely to occur in the proposed anchor retrieving area, bowhead, humpback, and fin whales are listed as endangered or threatened under the ESA. These species are also designated as ''depleted'' under the MMPA. None of the other species that may occur in the project area are listed as threatened or endangered under the ESA or designated as depleted under the MMPA.

Fairweather's proposed activities overlap areas that have been identified as biologically important areas (BIAs) for feeding for the gray and bowhead whales and for reproduction for gray whale during the summer and fall months (Clarke *et al.,* 2015). In addition, the coastal Beaufort Sea also serves as a migratory corridor during bowhead whale spring migration, as well as for their feeding and breeding activities. Additionally, the coastal area of Chukchi and Beaufort seas also serve as BIAs for beluga whales for their feeding and migration. However, Fairweather's proposed anchor retrieving operation would only occur in 5 locations totaling a maximum of 10 days. As discussed earlier, the Level B behavioral harassment of marine mammals from the proposed activity is expected to be in the form of brief startling reactions and animals temporarily vacating the area. No long-term biologically significant impacts to marine mammals are expected from the proposed anchor retrieving activity.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS finds that the total marine mammal take from Fairweather's proposed anchor retrieving operation in the Chukchi and Beaufort seas is not expected to adversely affect the affected species or stocks through impacts on annual rates of recruitment or survival, and therefore will have a negligible impact on the affected marine mammal species or stocks.

Small Numbers

The authorized takes represent less than 3.37 percent of all populations or stocks potentially impacted (see Table 4 in this document). The number of marine mammals authorized to be taken are small in proportion to the total populations of the affected species or stocks.

Impact on Availability of Affected Species for Taking for Subsistence Uses

Subsistence hunting is an essential aspect of Iñupiat life, especially in rural coastal villages. The Iñupiat participate in subsistence hunting activities in and around the Chukchi and Beaufort Seas. The animals taken for subsistence provide a significant portion of the food that will last the community through the year. Marine mammals represent on the order of 60–80 percent of the total subsistence harvest. Along with the nourishment necessary for survival, the subsistence activities strengthen bonds within the culture, provide a means for educating the younger generation, provide supplies for artistic expression, and allow for important celebratory events.

The MMPA requires that any harassment not result in an unmitigable adverse impact on the availability of species or stocks for taking (101(a)(5)(D)(i)(II)). Unmitigable adverse impact is defined as (50 CFR 216.103):

- An impact resulting from the specified activity that is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by:
- Causing marine mammals to abandon or avoid hunting areas;
- Directly displacing subsistence users;
- Placing physical barriers between the marine mammals and the subsistence users; and

• Cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

In the following sub-sections, the major animals used for subsistence by villages of the upper-west and north coast of Alaska are discussed (bowhead whale, beluga whale, and all three common species of seals (ringed, spotted, and bearded seals)).

Bowhead Whale

Anchor handling-related vessel traffic may traverse some areas used during bowhead harvests by Chukchi and Beaufort villages. Bowhead hunts by residents of Wainwright, Point Hope, and Point Lay take place almost exclusively in the spring prior to the date on which the vessels would commence the proposed anchor handling program. From 1984 through 2009, all bowhead harvests by these Chukchi Sea villages occurred only between April 14 and June 24 (George and Tarpley 1986; George *et al.,* 1987, 1988, 1990, 1992, 1995, 1998, 1999, 2000; Philo *et al.* 1994; Suydam *et al.,* 1995a,b, 1996, 1997, 2001a,b, 2002, 2003, 2004, 2005a,b, 2006, 2007, 2008, 2009, 2010), while vessels will not enter the Bering Sea (northbound) prior to July 1. However, fall whaling by some of these Chukchi Sea villages has occurred since 2010 and is likely to occur in the future, particularly if bowhead quotas are not completely filled during the spring hunt, and fall weather is accommodating. A Wainwright whaling crew harvested the first fall bowhead for these villages in 90 years or more on October 7, 2010, and another in October of 2011 (Suydam *et al.,* 2011, 2012, 2013). No bowhead whales were harvested during fall in 2012, but 3 were harvested by Wainwright in fall 2013.

Barrow crews have traditionally hunted bowheads during both spring and fall; however, spring whaling by Barrow crews is normally finished before the date on which anchor handling operations would commence. From 1984 through 2011 whales were harvested in the spring by Barrow crews only between April 23 and June 15 (George and Tarpley 1986; George *et al.,* 1987, 1988, 1990, 1992, 1995, 1998, 1999, 2000; Philo *et al.,* 1994; Suydam *et al.,* 1995 a, b, 1996, 1997, 2001a, 2002, 2003, 2004, 2005a,b, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013). Fall whaling by Barrow crews does take place during the time period when anchor handling activities would be completed, with vessels out of the Chukchi Sea by the end of August. From 1984 through 2011, whales were harvested in the fall by Barrow crews between August 31 and October 30, indicating that there is potential for vessel traffic to affect these hunts. Most fall whaling by Barrow crews, however, takes place east of Barrow along the Beaufort Sea coast therefore providing little opportunity for the anchor handling program to affect them. For example, Suydam *et al.* (2008) reported that in the previous 35 years, Barrow whaling crews harvested almost all their whales in the Beaufort Sea to the east of Point Barrow. As all anchor sites are over 100 miles from Barrow, NMFS does not anticipate any conflict with Barrow harvest. In the event the sonar survey for Sivulliq is taking place as Barrow is harvesting, the Norseman II will traverse 50 mi offshore around Barrow.

Nuiqsut and Kaktovik crews traditionally hunt during the fall, harvesting in late August through September. The Alaska Eskimo Whaling Commission (AEWC) requires that all industry activities cease working east of 150° W. by August 25th for the start of whaling for those communities. The anchor handling vessels will enter the Beaufort Sea as soon as ice at Point Barrow allows for safe passage and will complete the Sivulliq anchor retrieval well before August 25th. If a sonar survey is required on this site, it will take place after the completion of the fall hunt and has been cleared by both communities.

Beluga Whales

Beluga whales typically do not represent a large proportion of the subsistence harvests by weight in the communities of Wainwright and Barrow, the nearest communities to the planned anchor handling project area. Barrow residents hunt beluga in the spring (normally after the bowhead hunt) in leads between Point Barrow and Skull Cliffs in the Chukchi Sea, primarily in April–June and later in the summer (July–August) on both sides of the barrier island in Elson Lagoon/Beaufort Sea (Minerals Management Service (MMS) 2008), but harvest rates indicate the hunts are not frequent. Wainwright residents hunt beluga in April–June in the spring lead system, but this hunt typically occurs only if there are no bowheads in the area. Communal hunts for beluga are conducted along the coastal lagoon system later in July–August.

Belugas typically represent a much greater proportion of the subsistence harvest in Kotzebue, Point Lay, and Point Hope. Point Lay's primary beluga hunt occurs from mid-June through mid-July, but can sometimes continue into August if early success is not sufficient. Point Hope residents hunt beluga primarily in the lead system during the spring (late March to early June), but also in open water along the coastline in July and August. Belugas are harvested in spring mid-June through mid-July in Kotzebue, but the timing can vary based on beluga movement. Belugas are harvested in coastal waters near these villages, generally within a few miles from shore. In the Chukchi, the anchor retrieval sites are located more than 60 mi (97 km) offshore, therefore proposed anchor handling in the project area would have no or minimal impacts on beluga hunts.

The retrieval of anchors around Kotzebue is located nearshore and has the most potential for disturbance to beluga harvest. Fairweather will be required to communicate with the Kotzebue Whaling Commission, AEWC, and Com Center (if established) during operations in this area to avoid any conflict. Vessels will move offshore if Fairweather is not cleared to conduct activities.

Disturbance associated with vessel traffic could potentially affect beluga hunts. However, all of the beluga hunt by Barrow residents in the Chukchi Sea, and much of the hunt by Wainwright residents would likely be completed before anchor handling activities would commence. Additionally, vessel traffic associated with the anchor handling program will be restricted under normal conditions to designated corridors that remain onshore or proceed directly offshore thereby minimizing the amount of traffic in coastal waters where beluga hunts take place. The designated vessel traffic corridors do not traverse areas indicated in recent mapping as utilized by Point Lay or Point Hope for beluga hunts, and avoids important beluga hunting areas in Kasegaluk Lagoon that are used by Wainwright.

Seals

Seals are an important subsistence resource and ringed seals make up the bulk of the seal harvest. Most ringed and bearded seals are harvested in the winter or in the spring before the anchor handling program would commence, but some harvest continues during open water and could possibly be affected by the planned activities. Spotted seals are also harvested during the summer. Most seals are harvested in coastal waters, with available maps of recent and past subsistence use areas indicating seal harvests have occurred only within 48–64 km (30–40 mi) of the coastline. The anchor handling retrieval sites are located more than 103 km (64 mi) offshore, so activities are thought to possibly have an impact on subsistence

hunting for seals. Since most seal hunting is done during the winter and spring when the anchor handling program is not operational, NMFS considers that the potential effects to seal hunting are largely avoided.

Mitigation measures to be implemented include participation in operational Com Centers (below). With these mitigation measures and the nature of the proposed action, we are confident that any harassment of seals resulting from the 2016 anchor handling program will not have an unmitigable adverse impact on the availability of seals to be taken for subsistence uses.

Plan of Cooperation or Measures To Minimize Impacts to Subsistence Hunts

Regulations at 50 CFR 216.104(a)(12) require IHA applicants for activities that take place in Arctic waters to provide a Plan of Cooperation (POC) or information that identifies what measures have been taken and/or will be taken to minimize adverse effects on the availability of marine mammals for subsistence purposes.

Fairweather has prepared a draft POC, which was developed by identifying and evaluating any potential effects the proposed anchor retrieving operation might have on seasonal abundance that is relied upon for subsistence use.

Specifically, Fairweather will take important time periods into consideration when planning its anchor retrieving operation, including the beluga whale subsistence activities near Kotzebue and in the Chukchi Sea, and bowhead whale subsistence activities in the Chukchi and Beaufort seas. Fairweather plans to enter the Beaufort Sea as soon as Point Barrow is ice-free and be finished at the Sivulliq location well before the August 25, 2016 commencement date of bowhead whaling. Although not anticipated with the proposed schedule, if crew changes are needed, they will occur at either Wainwright or Prudhoe Bay depending on the location of the vessel. Fairweather will work with the community of Wainwright through its joint venture with Olgoonik Corporation. Through the establishment of village liaisons and onboard PSOs, Fairweather will ensure there are no conflicts with subsistence activities.

Fairweather has developed a communication plan and will implement this plan before initiating the anchor handling program. The plan will help coordinate activities with local Com Centers and thus subsistence users, minimize the risk of interfering with subsistence hunting activities, and keep current as to the timing and status of the bowhead whale hunt and other subsistence hunts. The communication plan includes procedures for coordination with Com Centers to be located in coastal villages along the Chukchi Sea during the proposed anchor handling activities.

Fairweather attended the AEWC meeting in Barrow from February 3–5 and presented the project components and developing mechanisms to work with the communities to present consistent and concise information regarding the planned anchor handling program. Fairweather intends to sign a Conflict Avoidance Agreement (CAA).

Throughout 2016, Fairweather will continue its engagement with the marine mammal commissions and committees active in the subsistence harvests and marine mammal research.

Endangered Species Act (ESA)

Within the project area, the bowhead, humpback, and fin whales are listed as endangered under the ESA. NMFS' Permits and Conservation Division engaged in consultation with staff in NMFS' Alaska Region Protected Resources Division under section 7 of the ESA on the issuance of an IHA to Fairweather under section 101(a)(5)(D) of the MMPA for this activity. In May 2016, NMFS issued a Biological Opinion concluding that the issuance of the IHA associated with Fairweather's anchor retrieval operations in the Chukchi and Beaufort seas during the 2016 open-water season is not likely to jeopardize the continued existence of the endangered bowhead, humpback, and fin whales. No critical habitat has been designated for these species, therefore none will be affected.

National Environmental Policy Act (NEPA)

NMFS prepared an Environmental Assessment (EA) that includes an analysis of potential environmental effects associated with NMFS' issuance of an IHA to Fairweather to take marine mammals incidental to conducting anchor retrieval operations in the Chukchi and Beaufort seas. The draft EA was available to the public for a 30-day comment period before it was finalized. Based on the EA, NMFS made a Finding of No Significant Impact (FONSI) for this action. The FONSI was signed on June 30, 2016, prior to this issuance of the IHA. Therefore, preparation of an Environmental Impact Statement is not necessary.

Authorization

As a result of these determinations, NMFS has issued an IHA to Fairweather for the take of marine mammals, by Level B harassment, incidental to conducting anchor retrieval operations in the Chukchi and Beaufort seas during the 2016 open-water season, which also includes the mitigation, monitoring, and reporting requirements described in this Notice.

Dated: August 3, 2016.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2016–18738 Filed 8–5–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF EDUCATION

Federal Need Analysis Methodology for the 2017–18 Award Year—Federal Pell Grant, Federal Perkins Loan, Federal Work-Study, Federal Supplemental Educational Opportunity Grant, William D. Ford Federal Direct Loan, Iraq and Afghanistan Service Grant and TEACH Grant Programs

AGENCY: Federal Student Aid, Department of Education.

ACTION: Notice; republication.

Catalog of Federal Domestic Assistance (CFDA) Numbers: 84.063; 84.038; 84.033; 84.007; 84.268; 84.408; 84.379.

SUMMARY: This notice is a republication of a May 24, 2016 notice (81 FR 32737) to include information that was missing from the original version. The only change to this version is in the ''Education Savings and Asset Protection Allowance'' table under the ''Parents of Dependent Students'' section, where the first row of information was missing from the original notice. No other information has changed.

The Secretary announces the annual updates to the tables used in the statutory Federal Need Analysis Methodology that determines a student's expected family contribution (EFC) for award year 2017–18 for these student financial aid programs. The intent of this notice is to alert the financial aid community and the broader public to these required annual updates used in the determination of student aid eligibility.

FOR FURTHER INFORMATION CONTACT: Marya Dennis, U.S. Department of Education, Room 63G2, Union Center Plaza, 830 First Street NE., Washington, DC 20202–5454. Telephone: (202) 377–3385.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Part F of title IV of the Higher Education Act of 1965, as amended (HEA), specifies the criteria, data elements, calculations, and tables the Department of Education (Department) uses in the Federal Need Analysis Methodology to determine the EFC.

Section 478 of the HEA requires the Secretary to annually update the following four tables for price inflation—the Income Protection Allowance (IPA), the Adjusted Net Worth (NW) of a Business or Farm, the Education Savings and Asset Protection Allowance, and the Assessment Schedules and Rates. The updates are based, in general, upon increases in the Consumer Price Index (CPI).

For award year 2017–18, the Secretary is charged with updating the IPA for parents of dependent students, adjusted NW of a business or farm, the education savings and asset protection allowance, and the assessment schedules and rates to account for inflation that took place between December 2015 and December 2016. However, because the Secretary must publish these tables before December 2016, the increases in the tables must be based on a percentage equal to the estimated percentage increase in the Consumer Price Index for All Urban Consumers (CPI–U) for 2016. The Secretary must also account for any under- or over-estimation of inflation for the preceding year.

In developing the table values for the 2016–17 award year, the Secretary assumed a 2.5 percent increase in the CPI–U for the period December 2014 through December 2015. Actual inflation for this time period was .7 percent. The Secretary estimates that the increase in the CPI–U for the period December 2015 through December 2016 will be 2.1 percent.

Additionally, section 601 of the College Cost Reduction and Access Act of 2007 (CCRAA, Pub. L. 110–84) amended sections 475 through 478 of the HEA affecting the IPA tables for the 2009–10 through 2012–13 award years and required the Department to use a percentage of the estimated CPI to update the table in subsequent years. These changes to the IPA impact dependent students, as well as independent students with dependents other than a spouse and independent students without dependents other than a spouse. This notice includes the new 2017–18 award year values for the IPA tables, which reflect the CCRAA amendments. The updated tables are in sections 1 (Income Protection Allowance), 2 (Adjusted Net Worth of a Business or Farm), and 4 (Assessment Schedules and Rates) of this notice.

As provided for in section 478(d) of the HEA, the Secretary must also revise the education savings and asset protection allowances for each award year. The Education Savings and Asset Protection Allowance table for award year 2017–18 has been updated in section 3 of this notice.

Section 478(h) of the HEA also requires the Secretary to increase the amount specified for the employment expense allowance, adjusted for inflation. This calculation is based on increases in the Bureau of Labor Statistics' marginal costs budget for a two-worker family compared to a one-worker family. The items covered by this calculation are: Food away from home, apparel, transportation, and household furnishings and operations. The Employment Expense Allowance table for award year 2017–18 has been updated in section 5 of this notice.

The HEA requires the following annual updates:

1. *Income Protection Allowance.* This allowance is the amount of living expenses associated with the maintenance of an individual or family that may be offset against the family's income. The allowance varies by family size. The IPA for the dependent student is $6,420. The IPAs for parents of dependent students for award year 2017–18 are as follows:

PARENTS OF DEPENDENT STUDENTS

Family size	Number in college				
	1	2	3	4	5
2	$17,910	$14,840			
3	22,300	19,250	$16,190		
4	27,540	24,480	21,430	$18,360	
5	32,490	29,430	26,380	23,320	$20,270
6	38,010	34,940	31,900	28,830	25,790

For each additional family member add $4,290. For each additional college student subtract $3,050.

The IPAs for independent students with dependents other than a spouse for award year 2017–18 are as follows:

INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE

Family size	Number in college				
	1	2	3	4	5
2	$25,280	$20,960			
3	31,480	27,180	$22,860		
4	38,870	34,560	30,260	$25,930	
5	45,870	41,540	37,240	32,920	$28,620
6	53,640	49,330	45,040	40,690	36,400

For each additional family member add $6,060. For each additional college student subtract $4,300.

The IPAs for single independent students and independent students without dependents other than a spouse for award year 2017–18 are as follows:

Marital status	Number in college	IPA
Single	1	$9,980
Married	2	9,980
Married	1	16,010

2. *Adjusted Net Worth of a Business or Farm.* A portion of the full NW (assets less debts) of a business or farm is excluded from the calculation of an expected contribution because (1) the income produced from these assets is already assessed in another part of the formula; and (2) the formula protects a portion of the value of the assets.

The portion of these assets included in the contribution calculation is computed according to the following schedule. This schedule is used for parents of dependent students, independent students without dependents other than a spouse, and independent students with dependents other than a spouse.

If the NW of a business or farm is	Then the adjusted NW is
Less than $1	$0
$1 to $130,000	$0 + 40% of NW.
$130,001 to $385,000	$52,000 + 50% of NW over $130,000.
$385,001 to $640,000	$179,500 + 60% of NW over $385,000.
$640,001 or more	$332,500 + 100% of NW over $640,000.

3. *Education Savings and Asset Protection Allowance.* This allowance protects a portion of NW (assets less debts) from being considered available for postsecondary educational expenses. There are three asset protection allowance tables: One for parents of dependent students, one for independent students without dependents other than a spouse, and one for independent students with dependents other than a spouse.

PARENTS OF DEPENDENT STUDENTS

If the age of the older parent is	And they are	
	Married	Single
	Then the education savings and asset protection allowance is	
25 or less	0	0
26	1,100	600
27	2,200	1,300
28	3,400	1,900
29	4,500	2,600
30	5,600	3,200
31	6,700	3,800
32	7,800	4,500
33	9,000	5,100
34	10,100	5,800
35	11,200	6,400
36	12,300	7,000
37	13,400	7,700
38	14,600	8,300
39	15,700	9,000
40	16,800	9,600
41	17,100	9,800
42	17,500	10,000
43	17,900	10,200
44	18,400	10,500
45	18,800	10,700
46	19,300	10,900
47	19,800	11,200
48	20,200	11,400
49	20,700	11,700
50	21,200	12,000
51	21,700	12,200
52	22,400	12,500
53	22,900	12,800
54	23,600	13,200
55	24,100	13,500
56	24,800	13,800
57	25,600	14,100
58	26,200	14,500
59	26,900	14,900
60	27,700	15,200

PARENTS OF DEPENDENT STUDENTS—Continued

If the age of the older parent is	And they are	
	Married	Single
	Then the education savings and asset protection allowance is	
61	28,500	15,600
62	29,300	16,000
63	30,100	16,400
64	31,100	16,900
65 or older	31,900	17,300

INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE

If the age of the student is	And they are	
	Married	Single
	Then the education savings and asset protection allowance is	
25 or less	0	0
26	1,100	600
27	2,200	1,300
28	3,400	1,900
29	4,500	2,600
30	5,600	3,200
31	6,700	3,800
32	7,800	4,500
33	9,000	5,100
34	10,100	5,800
35	11,200	6,400
36	12,300	7,000
37	13,400	7,700
38	14,600	8,300
39	15,700	9,000
40	16,800	9,600
41	17,100	9,800
42	17,500	10,000
43	17,900	10,200
44	18,400	10,500
45	18,800	10,700
46	19,300	10,900
47	19,800	11,200
48	20,200	11,400
49	20,700	11,700
50	21,200	12,000
51	21,700	12,200
52	22,400	12,500
53	22,900	12,800
54	23,600	13,200
55	24,100	13,500
56	24,800	13,800
57	25,600	14,100
58	26,200	14,500
59	26,900	14,900
60	27,700	15,200
61	28,500	15,600
62	29,300	16,000
63	30,100	16,400
64	31,100	16,900
65 or older	31,900	17,300

INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE

If the age of the student is	And they are	
	Married	Single
	Then the education savings and asset protection allowance is	
25 or less	0	0

INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE—Continued

If the age of the student is	And they are	
	Married	Single
	Then the education savings and asset protection allowance is	
26	1,100	600
27	2,200	1,300
28	3,400	1,900
29	4,500	2,600
30	5,600	3,200
31	6,700	3,800
32	7,800	4,500
33	9,000	5,100
34	10,100	5,800
35	11,200	6,400
36	12,300	7,000
37	13,400	7,700
38	14,600	8,300
39	15,700	9,000
40	16,800	9,600
41	17,100	9,800
42	17,500	10,000
43	17,900	10,200
44	18,400	10,500
45	18,800	10,700
46	19,300	10,900
47	19,800	11,200
48	20,200	11,400
49	20,700	11,700
50	21,200	12,000
51	21,700	12,200
52	22,400	12,500
53	22,900	12,800
54	23,600	13,200
55	24,100	13,500
56	24,800	13,800
57	25,600	14,100
58	26,200	14,500
59	26,900	14,900
60	27,700	15,200
61	28,500	15,600
62	29,300	16,000
63	30,100	16,400
64	31,100	16,900
65 or older	31,900	17,300

4. *Assessment Schedules and Rates.* Two schedules that are subject to updates—one for parents of dependent students and one for independent students with dependents other than a spouse—are used to determine the EFC from family financial resources toward educational expenses. For dependent students, the EFC is derived from an assessment of the parents' adjusted available income (AAI). For independent students with dependents other than a spouse, the EFC is derived from an assessment of the family's AAI. The AAI represents a measure of a family's financial strength, which considers both income and assets.

The parents' contribution for a dependent student is computed according to the following schedule:

If AAI is	Then the contribution is
Less than −$3,409	−$750
−$3,409 to $16,000	22% of AAI.
$16,001 to $20,100	$3,520 + 25% of AAI over $16,000.
$20,101 to $24,200	$4,545 + 29% of AAI over $20,100.
$24,201 to $28,300	$5,734 + 34% of AAI over $24,200.
$28,301 to $32,300	$7,128 + 40% of AAI over $28,300.
$32,301 or more	$8,728 + 47% of AAI over $32,300.

The contribution for an independent student with dependents other than a spouse is computed according to the following schedule:

If AAI is	Then the Contribution is
Less than −$3,409	−$750
−$3,409 to $16,000	22% of AAI
$16,001 to $20,100	$3,520 + 25% of AAI over $16,000
$20,101 to $24,200	$4,545 + 29% of AAI over $20,100
$24,201 to $28,300	$5,734 + 34% of AAI over $24,200
$28,301 to $32,300	$7,128 + 40% of AAI over $28,300
$32,301 or more	$8,728 + 47% of AAI over $32,300

5. *Employment Expense Allowance.* This allowance for employment-related expenses—which is used for the parents of dependent students and for married independent students—recognizes additional expenses incurred by working spouses and single-parent households. The allowance is based on the marginal differences in costs for a two-worker family compared to a one-worker family. The items covered by these additional expenses are: Food away from home, apparel, transportation, and household furnishings and operations.

The employment expense allowance for parents of dependent students, married independent students without dependents other than a spouse, and independent students with dependents other than a spouse is the lesser of $4,000 or 35 percent of earned income.

6. *Allowance for State and Other Taxes.* The allowance for State and other taxes protects a portion of parents' and students' incomes from being considered available for postsecondary educational expenses. There are four categories for State and other taxes, one each for parents of dependent students, independent students with dependents other than a spouse, dependent students, and independent students without dependents other than a spouse. Section 478(g) of the HEA directs the Secretary to update the tables for State and other taxes after reviewing the Statistics of Income file data maintained by the Internal Revenue Service.

State	Parents of dependents and independents with dependents other than a spouse		Dependents and independents without dependents other than a spouse
	Percent of Total Income		
	Under $15,000	$15,000 & Up	All (%)
Alabama	3	2	2
Alaska	2	1	0
Arizona	4	3	2
Arkansas	4	3	3
California	8	7	6
Colorado	4	3	3
Connecticut	9	8	5
Delaware	5	4	3
District of Columbia	8	7	6
Florida	3	2	1
Georgia	5	4	3
Hawaii	5	4	4
Idaho	5	4	3
Illinois	6	5	3
Indiana	4	3	3
Iowa	5	4	3
Kansas	4	3	3
Kentucky	5	4	4
Louisiana	3	2	2
Maine	6	5	4
Maryland	8	7	6
Massachusetts	7	6	4
Michigan	5	4	3
Minnesota	6	5	5
Mississippi	3	2	2
Missouri	5	4	3
Montana	5	4	3
Nebraska	5	4	3
Nevada	2	1	1
New Hampshire	5	4	1
New Jersey	9	8	5
New Mexico	3	2	2
New York	10	9	7
North Carolina	5	4	4
North Dakota	2	1	1
Ohio	5	4	3
Oklahoma	3	2	2

State	Parents of dependents and independents with dependents other than a spouse		Dependents and independents without dependents other than a spouse
	Percent of Total Income		
	Under $15,000	$15,000 & Up	All (%)
Oregon	7	6	5
Pennsylvania	5	4	3
Rhode Island	7	6	4
South Carolina	5	4	3
South Dakota	2	1	1
Tennessee	2	1	1
Texas	3	2	1
Utah	5	4	3
Vermont	6	5	3
Virginia	6	5	4
Washington	3	2	1
West Virginia	3	2	2
Wisconsin	7	6	4
Wyoming	2	1	1
Other	2	1	1

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Program Authority: 20 U.S.C. 1087rr.

Dated: August 3, 2016.

James W. Runcie,

Chief Operating Officer Federal Student Aid.

[FR Doc. 2016–18723 Filed 8–5–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Enhanced Assessment Instruments Grant Program—Enhanced Assessment Instruments

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

Overview Information:

Enhanced Assessment Instruments Grant Program—Enhanced Assessment Instruments.

Notice inviting applications for new awards for fiscal year (FY) 2016.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.368A.

DATES:

Applications Available: August 8, 2016.

Deadline for Notice of Intent to Apply: August 29, 2016.

Deadline for Transmittal of Applications: September 22, 2016.

Deadline for Intergovernmental Review: November 21, 2016.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the Enhanced Assessment Instruments Grant program, also called the Enhanced Assessment Grants (EAG) program, is to enhance the quality of assessment instruments and assessment systems used by States for measuring the academic achievement of elementary and secondary school students.

Priorities: This competition includes four absolute priorities and three competitive preference priorities. In accordance with 34 CFR 75.105(b)(2)(iv), the absolute priorities are from section 6112 of the Elementary and Secondary Education Act of 1965, as amended (ESEA), as amended by the No Child Left Behind Act of 2001 (NCLB), 20 U.S.C. 7301a. The competitive preference priorities are from the Department's notice of final priorities published elsewhere in this issue of the **Federal Register**.

Absolute Priorities: For FY 2016 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are absolute priorities. Under 34 CFR 75.105(c)(3) we consider only applications that meet one or more of the absolute priorities.

These priorities are:

Absolute Priority 1—Collaboration.

Collaborate with institutions of higher education, other research institutions, or other organizations to improve the quality, validity, and reliability of State academic assessments beyond the requirements for these assessments described in section 1111(b)(3) of the ESEA, as amended by NCLB.

Absolute Priority 2—Use of Multiple Measures of Student Academic Achievement.

Measure student academic achievement using multiple measures of student academic achievement from multiple sources.

Absolute Priority 3—Charting Student Progress Over Time.

Chart student progress over time.

Absolute Priority 4—Comprehensive Academic Assessment Instruments.

Evaluate student academic achievement through the development of comprehensive academic assessment instruments, such as performance- and

technology-based academic assessments.

Competitive Preference Priorities: For FY 2016 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are competitive preference priorities. For Competitive Preference Priority 1, under 34 CFR 75.105(c)(2)(i), the Department awards up to an additional 15 points to an application, depending on how well the application meets the priority. Specifically, the Department awards up to an additional 10 points to an application depending on how well the application meets parts (a) and (c), and up to an additional five points to an application depending on how well the application meets parts (b) and (c). For Competitive Preference Priority 2, under 34 CFR 75.105(c)(2)(i), the Department awards up to an additional 10 points, depending on how well the application meets the priority. Specifically, the Department awards up to an additional five points to an application depending on how well the application meets parts (a) and (c), and up to an additional five points to an application depending on how well the application meets parts (b) and (c). An applicant may choose to respond to either or both parts (a) and (b) of either of these priorities. For Competitive Preference Priority 3, under 34 CFR 75.105(c)(2)(i), the Department awards up to an additional five points to an application, depending on how well the application meets this priority. An applicant may choose to respond to and earn points for how well the application meets multiple competitive preference priorities.

These priorities are:

Competitive Preference Priority 1—Developing Innovative Assessment Item Types and Design Approaches. (Up to 15 points.)

Under this priority, SEAs must:

(a) Develop, evaluate, and implement new, innovative item types for use in summative assessments in reading/language arts, mathematics, or science;

(1) Development of innovative item types under paragraph (a) may include, for example, performance tasks; simulations; or interactive, multi-step, technology-rich items that can support competency-based assessments or portfolio projects;

(2) Projects under this priority must be designed to develop new methods for collecting evidence about a student's knowledge and abilities and ensure the quality, validity, reliability, and fairness (such as by incorporating principles of universal design for learning) of the assessment and comparability of student data; or

(b) Develop new approaches to transform traditional, end-of-year summative assessment forms with many items into a series of modular assessment forms, each with fewer items than the end-of-year summative assessment.

(1) To respond to paragraph (b), applicants must develop modular assessment approaches which can be used to provide timely feedback to educators and parents as well as be combined to provide a valid, reliable, and fair summative assessment of individual students.

(c) Applicants proposing projects under either paragraph (a) or (b) must provide a dissemination plan to share lessons learned and best practices such that their projects can serve as models and resources that can be shared with other States.

Competitive Preference Priority 2—Improving Assessment Scoring and Score Reporting. (Up to 10 points.)

Under this priority, SEAs must:

(a) Develop innovative tools that leverage technology to score assessments;

(1) To respond to paragraph (a), applicants must propose projects to reduce the time it takes to provide test results to educators, parents, and students and to make it more cost-effective to include non-multiple choice items on assessments. These innovative tools must improve automated scoring of student assessments, in particular non-multiple choice items in reading/language arts, mathematics, or science; or

(b) Propose projects, in consultation with organizations representing parents (including parents of English learners and parents of students with disabilities), students, teachers, counselors, and school administrators to address needs related to score reporting and improve the utility of information about student performance included in reports of assessment results and provide better and more timely information to educators and parents;

(1) To respond to paragraph (b), applicants must include one or more of the following in their projects:

(i) Developing enhanced score reporting templates or digital mechanisms for communicating assessment results and their meaning (such as by providing clear and actionable next steps for parents);

(ii) Improving the assessment literacy of educators and parents to help them interpret test results and to support teaching and learning in the classroom (such as by providing training on test development and interpretation of test scores); and

(iii) Developing mechanisms for secure transmission and individual use of assessment results by students and parents.

(c) Applicants proposing projects under either paragraph (a) or (b) must provide a dissemination plan to share lessons learned and best practices such that their projects can serve as models and resources that can be shared with other States.

Competitive Preference Priority 3—Inventory of State and Local Assessment Systems. (Up to 5 points.)

(a) Under this priority, SEAs must—

(1) Review statewide and local assessments to ensure that each test is of high quality, maximizes instructional goals, has a clear purpose and utility, and is designed to help students demonstrate mastery of State standards;

(2) Determine whether assessments are serving their intended purpose to measure student achievement and identify gaps in students' knowledge and skills and to eliminate redundant and unnecessary testing; and

(3) Review State and LEA strategies and activities related to test preparation to make sure those strategies and activities are focused on academic content and not on test-taking skills.

(b) To meet the requirements in paragraph (a), SEAs must ensure that tests, including statewide and local assessments are—

(1) Worth taking, meaning that assessments are a component of good instruction and require students to perform the same kind of complex work they do in an effective classroom and the real world;

(2) High quality, resulting in actionable, objective information about students' knowledge and skills, including by assessing the full range of relevant State standards, eliciting complex student demonstrations or applications of knowledge, providing an accurate measure of student achievement, and producing information that can be used to measure student growth accurately over time;

(3) Time-limited, in order to balance instructional time and the need for assessments, for example, by eliminating duplicative assessments and assessments that incentivize low-quality test preparation strategies that consume valuable classroom time;

(4) Fair for all students and used to support equity in educational opportunity by ensuring that accessibility features and accommodations level the playing field so tests accurately reflect what all students, including students with disabilities and English learners, know and can do;

(5) Fully transparent to students and parents, so that States and districts can clearly explain to parents the purpose, the source of the requirement (if appropriate), and the use by teachers and schools, and provide feedback to parents and students on student performance; and

(6) Tied to improving student learning as tools in the broader work of teaching and learning.

(c) Approaches to assessment inventories under paragraph (a) must include:

(1) Review of the schedule for administration of all assessments required at the Federal, State, and local levels;

(2) Review of the purpose of, and legal authority for, administration of all assessments required at the Federal, State, and local levels; and

(3) Feedback on the assessment system from stakeholders, which could include information on how teachers, principals, other school leaders, and administrators use assessment data to inform and differentiate instruction, how much time teachers spend on assessment preparation and administration, and the assessments that administrators, teachers, principals, other school leaders, parents, and students do and do not find useful.

(d) Projects under this priority—

(1) Must be no longer than 12 months;

(2) Must include a longer-term project plan, understanding that, beginning with FY 2017, there may be dedicated Federal funds for assessment audit work as authorized under section 1202 of the ESEA, as amended by the ESSA, and understanding that States and LEAs may use other Federal funds, such as the State assessment grant funds, authorized under section 1201 of the ESEA, as amended by the ESSA, consistent with the purposes for those funds, to implement such plans; and

(3) Must have a budget of $200,000 or less.

Requirements: The following requirements are from the notice of final priorities, requirements, definitions, and selection criteria for this program published in the **Federal Register** on April 19, 2011 (76 FR 21985) (2011 NFP). With respect to requirement (b), the Department notes that the Race to the Top Assessment program ended in 2015. As a result, while the grantees will be expected to meet this requirement broadly, they will not need to coordinate with the Race to the Top Assessment program.

An eligible applicant awarded a grant under this program must:

(a) Evaluate the validity, reliability, and fairness of any assessments or other assessment-related instruments developed under a grant from this competition, and make available documentation of evaluations of technical quality through formal mechanisms (*e.g.,* peer-reviewed journals) and informal mechanisms (*e.g.,* newsletters), both in print and electronically;

(b) Actively participate in any applicable technical assistance activities conducted or facilitated by the Department or its designees, coordinate with the Race To The Top Assessment program in the development of assessments under this program, and participate in other activities as determined by the Department;

(c) Develop a strategy to make student-level data that result from any assessments or other assessment-related instruments developed under a grant from this competition available on an ongoing basis for research, including for prospective linking, validity, and program improvement studies; [1]

(d) Ensure that any assessments or other assessment-related instruments developed under a grant from this competition will be operational (ready for large-scale administration) at the end of the project period;

(e) Ensure that funds awarded under the EAG program are not used to support the development of standards, such as under the English language proficiency assessment system priority or any other priority;

(f) Maximize the interoperability of any assessments and other assessment-related instruments developed with funds from this competition across technology platforms and the ability for States to move their assessments from one technology platform to another by doing the following, as applicable, for any assessments developed with funds from this competition by—

(1) Developing all assessment items in accordance with an industry-recognized, open-licensed, interoperability standard that is approved by the Department during the grant period, without non-standard extensions or additions; and

(2) Producing all student-level data in a manner consistent with an industry-recognized open-licensed interoperability standard that is approved by the Department during the grant period;

(g) Unless otherwise protected by law or agreement as proprietary information, make any assessment content (*i.e.,* assessments and assessment items) and other assessment-related instruments developed with funds from this competition freely available to States, technology platform providers, and others that request it for purposes of administering assessments, provided that those parties receiving assessment content comply with consortium or State requirements for test or item security; and

(h) For any assessments and other assessment-related instruments developed with funds from this competition, use technology to the maximum extent appropriate to develop, administer, and score the assessments and report results.

Definitions: The following definitions are from the 2011 NFP and the notice of final priorities, requirement, definitions, and selection criteria for this program published in the **Federal Register** on May 23, 2013 (78 FR 31343) (2013 NFP).

English learner means a child, including a child aged three and younger, who is an English learner consistent with the definition of a child who is ''limited English proficient,'' as applicable, in section 9101(25) of the ESEA, as amended by NCLB. (2013 NFP)

Student with a disability means a student who has been identified as a child with a disability under the Individuals with Disabilities Education Act, as amended. (2011 NFP)

Program Authority: Section 6112 of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by NCLB, and section 1203(b)(1) of the ESEA, as amended by the Every Student Succeeds Act (Pub. L. 114–95) (ESSA).

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The notice of final priorities published elsewhere in this issue of the **Federal Register**. (e) The 2011 NFP and the 2013 NFP.

II. Award Information

Type of Award: Discretionary grants.

[1] Eligible applicants awarded a grant under this program must comply with the Family Educational Rights and Privacy Act (FERPA) and 34 CFR part 99, as well as State and local requirements regarding privacy.

Estimated Available Funds: $8,860,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2016 from the list of unfunded applications from this competition.

Estimated Range of Awards: $100,000 to $4,000,000.

Estimated Average Size of Awards: $2,500,000.

Estimated Number of Awards: 3–6.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 48 months.

Note: For Competitive Preference Priority 1 and Competitive Preference Priority 2, applicants should submit a single budget and propose a project period of up to 48 months. Applicants should propose a project period that is up to 48 months, based on a timeline that takes into account the urgency of the need of the final project findings and products to be accessible to the field. Subject to the availability of future years' funds, the Department may make supplemental grant awards to grants awarded in this competition. Applicants that address Competitive Preference Priority 3 may not propose a project period of greater than 12 months or a budget of greater than $200,000. If an applicant addresses Competitive Preference Priority 3, as well as one of the other competitive preference priorities, then that portion of the proposed project period attributable to the project activities under Competitive Preference Priority 3 may not exceed 12 months; and that portion of the proposed budget attributable to the project activities under Competitive Preference Priority 3 may not exceed $200,000.

III. Eligibility Information

1. *Eligible Applicants:* State educational agencies (SEAs) as defined in section 9101(41) of the ESEA, as amended by NCLB, and consortia of such SEAs.

2. *Cost Sharing or Matching:* This competition does not require cost sharing or matching.

3. *Other:* An application from a consortium of SEAs must designate one SEA as the fiscal agent.

IV. Application and Submission Information

1. *Address to Request Application Package:* Donald Peasley, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue SW., Room 3E124, Washington, DC 20202–6132. Telephone: (202) 453–7982 or by email: *Donald.Peasley@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the program contact person listed in this section.

2. *Content and Form of Application Submission:* Requirements concerning the content and form of an application, together with the forms you must submit, are in the application package for this competition. Page Limit: The project narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit the application narrative to the equivalent of no more than 65 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The page limit applies to the project narrative, including the table of contents, which must include a discussion of how the application meets one or more of the absolute priorities; if applicable, how the application meets one or more of the competitive preference priorities; and how well the application addresses each of the selection criteria. The page limit also applies to any attachments to the project narrative other than the items mentioned in Part 6 of the application package, including the references/bibliography. In other words, the entirety of the project narrative, including the aforementioned discussion and any attachments to the project narrative, must be limited to the equivalent of no more than 65 pages. The only allowable attachments other than those included in the project narrative are outlined in Part 6, ''Other Attachments Forms,'' in the application package. Any attachments other than those included within the page limit of the project narrative and those outlined in Part 6 will not be reviewed.

The 65-page limit, or its equivalent, does not apply to the following sections of an application: Part 1 (including the response regarding research activities involving human subjects); Part 2 (budget information); Part 3 (two-page project abstract); Part 5 (the budget narrative); Part 6 (memoranda of understanding or other binding agreement, if applicable; copy of applicant's indirect cost rate agreement; letters of commitment and support from collaborating SEAs and organizations; other attachments forms, including, if applicable, references/bibliography for the project narrative and individual résumés for project director(s) and key personnel); and Part 7 (standard assurances and certifications). Applicants are encouraged to limit each résumé to no more than five pages.

In addition, do not use hyperlinks in an application. Reviewers will be instructed not to follow hyperlinks if included. Our reviewers will not read any pages of your project narrative that exceed the page limit, or the equivalent of the page limit if you apply other standards. Applicants are encouraged to submit applications that meet the page limit following the standards outlined in this section rather than submitting applications that are the equivalent of the page limit applying other standards.

3. *Submission Dates and Times:*

Applications Available: August 8, 2016.

Deadline for Notice of Intent to Apply: August 29, 2016.

We will be able to develop a more efficient process for reviewing grant applications if we have a better understanding of the number of applicants that intend to apply for funding under this competition. Therefore, we strongly encourage each potential applicant to notify us of the applicant's intent to submit an application for funding. This notification should be brief, and identify the SEA applicant and, if applicable, the SEA that it will designate as the fiscal agent for an award (*e.g.,* in the case of consortia applicants). Submit this notification by email to *Donald.Peasley@ed.gov* with ''Intent to Apply'' in the email subject line or mail to Donald Peasley, U.S. Department of Education, 400 Maryland Avenue SW., Room 3E124, Washington, DC 20202–6132. Applicants that do not provide this email notification may still apply for funding.

Deadline for Transmittal of Applications: September 22, 2016.

Applications for grants under this competition must be submitted electronically using the *Grants.gov* Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to

Other Submission Requirements in section IV of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: November 21, 2016.

4. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet at the following Web site: *http://fedgov.dnb.com/webform.* A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow two to five weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data you enter into the SAM database. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, it may be 24 to 48 hours before you can access the information in, and submit an application through, *Grants.gov*.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via *Grants.gov*, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with *Grants.gov* as an AOR. Details on these steps are outlined at the following *Grants.gov* Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the EAG competition, CFDA number 84.368A, must be submitted electronically using the Governmentwide *Grants.gov* Apply site at *www.Grants.gov*. Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the EAG competition at www.*Grants.gov*. You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.326, not 84.326A).

Please note the following:

- When you enter the *Grants.gov* site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by *Grants.gov* are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the *Grants.gov* system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the *Grants.gov* system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from *Grants.gov*, we will notify you if we are rejecting your application because it was date and time stamped by the *Grants.gov* system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through *Grants.gov*.
- You should review and follow the Education Submission Procedures for submitting an application through *Grants.gov* that are included in the application package for this competition to ensure that you submit your application in a timely manner to the *Grants.gov* system. You can also find the Education Submission Procedures pertaining to *Grants.gov* under News and Events on the Department's G5 system home page at *www.G5.gov*. In addition, for specific guidance and procedures for submitting an application through *Grants.gov*, please refer to the *Grants.gov* Web site at:

www.grants.gov/web/grants/applicants/apply-for-grants.html.

- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a read-only, non-modifiable Portable Document Format (PDF). Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF (*e.g.,* Word, Excel, WordPerfect, etc.) or submit a password-protected file, we will not review that material. Please note that this could result in your application not being considered for funding because the material in question—for example, the application narrative—is critical to a meaningful review of your proposal. For that reason it is important to allow yourself adequate time to upload all material as PDF files. The Department will not convert material from other formats to PDF.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from *Grants.gov* an automatic notification of receipt that contains a *Grants.gov* tracking number. This notification indicates receipt by *Grants.gov* only, not receipt by the Department. *Grants.gov* will also notify you automatically by email if your application met all the *Grants.gov* validation requirements or if there were any errors (such as submission of your application by someone other than a registered Authorized Organization Representative, or inclusion of an attachment with a file name that contains special characters). You will be given an opportunity to correct any errors and resubmit, but you must still meet the deadline for submission of applications.

Once your application is successfully validated by *Grants.gov*, the Department will retrieve your application from *Grants.gov* and send you an email with a unique PR/Award number for your application.

These emails do not mean that your application is without any disqualifying errors. While your application may have been successfully validated by *Grants.gov*, it must also meet the Department's application requirements as specified in this notice and in the application instructions. Disqualifying errors could include, for instance, failure to upload attachments in a read-only, non-modifiable PDF; failure to submit a required part of the application; or failure to meet applicant eligibility requirements. It is your responsibility to ensure that your submitted application has met all of the Department's requirements.

- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through *Grants.gov*, please contact the *Grants.gov* Support Desk, toll free, at 1–800–518–4726. You must obtain a *Grants.gov* Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the *Grants.gov* system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with *Grants.gov*, along with the *Grants.gov* Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the *Grants.gov* system and that the problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. We will contact you after we determine whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the *Grants.gov* system. We will not grant you an extension if you failed to fully register to submit your application to *Grants.gov* before the application deadline date and time or if the technical problem you experienced is unrelated to the *Grants.gov* system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the *Grants.gov* system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the *Grants.gov* system; *and*
- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Donald Peasley, U.S. Department of Education, 400 Maryland Avenue SW., Room 3E124, Washington, DC 20202–6132. FAX: (202) 401–1557.

Your paper application must be submitted in accordance with the mail or hand-delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, *Attention:* (CFDA Number 84.368A), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

We will not consider applications postmarked after the application deadline date.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, *Attention:* (CFDA Number 84.368A), 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210. We will award up to 120 points to an application under the selection criteria; the total possible points for each selection criterion are noted in parentheses.

(a) *Need for project.* (5 points)

The Secretary considers the need for the proposed project. In determining the need for the proposed project, the Secretary considers the following factors:

1. The magnitude of severity of the problem to be addressed by the proposed project.

2. The magnitude of the need for the services to be provided or the activities to be carried out by the proposed project.

3. The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses.

(b) *Significance.* (25 points)

The Secretary considers the significance of the proposed project. In determining the significance of the proposed project, the Secretary considers the following factors:

1. The significance of the problem or issue to be addressed by the proposed project.

2. The potential contribution of the proposed project to the development and advancement of theory, knowledge, and practices in the field of study.

3. The potential for generalizing from the findings or results of the proposed project.

4. The extent to which the proposed project involves the development or demonstration of promising new strategies that build on, or are alternatives to, existing strategies.

5. The likely utility of the products (such as information, materials, processes, or techniques) that will result from the proposed project, including the potential for their being used effectively in a variety of other settings.

(c) *Quality of the project design.* (35 points)

The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

1. The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

2. The extent to which there is a conceptual framework underlying the proposed research or demonstration activities and the quality of that framework.

3. The extent to which the proposed activities constitute a coherent, sustained, program of research and development in the field, including, as appropriate, a substantial addition to an ongoing line of inquiry.

4. The extent to which the proposed project is based upon a specific research design, and the quality and appropriateness of that design, including the scientific rigor of the studies involved.

5. The extent to which the proposed development efforts include adequate quality controls and, as appropriate, repeated testing of products.

6. The extent to which the design of the proposed project reflects up-to-date knowledge from research and effective practice.

7. The quality of the methodology to be employed in the proposed project.

8. The potential and planning for the incorporation of project purposes, activities, or benefits into the ongoing work of the applicant beyond the end of the grant.

(d) *Quality of project services.* (5 points)

The Secretary considers the quality of the services to be provided by the proposed project. In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. In addition, the Secretary considers the following factors:

1. The extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services.

2. The likelihood that the services to be provided by the proposed project will lead to improvements in the achievement of students as measured against rigorous academic standards.

(e) *Quality of project personnel.* (8 points)

The Secretary considers the quality of the personnel who will carry out the proposed project. In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. In addition, the Secretary considers the following factors:

1. The qualifications, including relevant training and experience, of the project director or principal investigator.

2. The qualifications, including relevant training and experience, of key project personnel.

3. The qualifications, including relevant training and experience, of project consultants or subcontractors.

(f) *Adequacy of resources.* (12 points)

The Secretary considers the adequacy of resources for the proposed project. In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

1. The adequacy of support, including facilities, equipment, supplies, and other resources, from the application organization or the lead applicant organization.

2. The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project.

3. The extent to which the budget is adequate to support the proposed project.

4. The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project.

(g) *Quality of the management plan.* (12 points)

The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

1. The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

2. The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project.

3. The adequacy of mechanisms for ensuring high-quality products and services from the proposed project.

4. The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

(h) *Quality of the project evaluation.* (10 points)

The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers the following factors:

1. The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

2. The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

3. The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

4. The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

5. The extent to which the evaluation will provide guidance about effective strategies suitable for replication or testing in other settings.

(i) *Strategy to scale.* (8 points)

The Secretary considers the applicant's strategy to scale the proposed project. In determining the applicant's capacity to scale the proposed project, the Secretary considers the following factors:

1. The applicant's capacity (*e.g.,* in terms of qualified personnel, financial resources, or management capacity) to further develop and bring to scale the proposed process, product, strategy, or practice, or to work with others to ensure that the proposed process, product, strategy, or practice can be further developed and brought to scale, based on the findings of the proposed project.

2. The mechanisms the applicant will use to broadly disseminate information on its project so as to support further development or replication.

3. The extent to which the applicant demonstrates there is unmet demand for the process, product, strategy, or practice that will enable the applicant to reach the level of scale that is proposed in the application.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Risk Assessment and Special Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose special conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $150,000), under 2 CFR 200.205(a)(2), we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through SAM. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The

GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

4. *Performance Measures:* Under the Government Performance and Results Act of 1993, the Department has developed four measures to evaluate the overall effectiveness of the EAG program: (1) The number of States that participate in EAG projects funded by this competition; (2) the percentage of grantees that, at least twice during the period of their grants, make available to SEA staff in non-participating States and to assessment researchers information on findings resulting from the EAG through presentations at national conferences, publications in refereed journals, or other products disseminated to the assessment community; (3) for each grant cycle and as determined by an expert panel, the percentage of EAG that yield significant research, methodologies, products, or tools regarding assessment systems or assessments; and (4) for each grant cycle and as determined by an expert panel, the percentage of EAG that yield significant research, methodologies, products, or tools specifically regarding accommodations and alternate assessments for students with disabilities and limited English proficient students. Grantees will be expected to include in their interim and final performance reports information about the accomplishments of their projects because the Department will need data on these measures.

5. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Donald Peasley, U.S. Department of Education, 400 Maryland Avenue SW., Room 3e124, Washington, DC 20202–6132. Telephone: (202) 453–7982 or by email: *Donald.Peasley@ed.gov.*

If you use a TDD or a TTY, call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or PDF. To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: August 1, 2016.

Ann Whalen,

Senior Advisor to the Secretary, Delegated the Duties of Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2016–18532 Filed 8–5–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

National Coal Council Meeting

AGENCY: Department of Energy.

ACTION: Notice.

SUMMARY: This notice announces a virtual meeting via WebEx of the National Coal Council (NCC). The Federal Advisory Committee Act (92, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Tuesday, August 30, 2016 at 2:00 p.m.

ADDRESSES: If you wish to join the meeting you must register on-line by close of business on August 26, 2016, at the following URL: *https://goo.gl/forms/dQnwFBvzl7JcqWLX2.*

FOR FURTHER INFORMATION CONTACT: Mr. Daniel Matuszak, U.S. Department of Energy, 4G–036/Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585–0001; Telephone: 202–586–6915.

SUPPLEMENTARY INFORMATION:

Purpose of the Council: The National Coal Council provides advice and recommendations to the Secretary of Energy, on general policy matters relating to coal and the coal industry.

Purpose of Meeting: The National Coal Council (the Council) will hold a virtual meeting via webcast at 2:00 p.m. Eastern Time on August 30, 2016 for the sole purpose of receiving the report ''CO_2 Building Blocks: Assessing CO_2 Utilization Options'' from the Coal Policy Committee. The Council membership will be asked to accept the report and forward it to the U.S. Secretary of Energy.

The draft white paper will be available on the National Coal Council Web site on August 25, 2016, at the following URL: *http://www.nationalcoalcouncil.org/Documents/CO2-Building-Blocks-2016.pdf.*

If you wish to join the meeting you must register on-line by close of business on August 26, 2016, at the following URL: *https://goo.gl/forms/dQnwFBvzl7JcqWLX2.*

The email address you provide in the on-line registration form will be used to forward instructions on how to join the

meeting using WebEx. WebEx requires a computer, web browser and an installed application (free). Instructions for joining the webcast will be sent to you two days in advance of the meeting.

Tentative Agenda

1. Call to order
2. Report of the Coal Policy Committee
3. Motion on the fate of the report
4. Adjourn

Public Participation: The virtual meeting is open to the public. If you would like to file a written statement with the Council, you may do so either before or within 5 days after the meeting.

Minutes: A link to the audio/video recording of the meeting will be posted within 30-days on the NCC Web site at: *http://www.nationalcoalcouncil.org/.*

Issued at Washington, DC, on August 2, 2016.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2016–18725 Filed 8–5–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Biomass Research and Development Technical Advisory Committee

AGENCY: Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces an open meeting of the Biomass Research and Development Technical Advisory Committee under Section 9008(d) of the Food, Conservation, and Energy Act of 2008 amended by the Agricultural Act of 2014. The Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) requires that agencies publish these notices in the **Federal Register** to allow for public participation. This notice announces the meeting of the Biomass Research and Development Technical Advisory Committee.

DATES AND TIMES: August 17, 2016, 8:30 a.m.–5:30 p.m.; August 18, 2016, 8:30 a.m.–12:00 p.m.

ADDRESSES: Best Western Plus Inn Towner, 2424 University Avenue, Madison, WI 53726.

FOR FURTHER INFORMATION CONTACT: Elliott Levine, Designated Federal Officer for the Committee, Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585; Email: *Elliott.Levine@ee.doe.gov* and Roy Tiley at (410) 997–7778 ext. 220; Email: *rtiley@bcs-hq.com.*

SUPPLEMENTARY INFORMATION:

Purpose of Meeting: To develop advice and guidance that promotes research and development leading to the production of biobased fuels and biobased products.

Tentative Agenda: Agenda will include the following:

- Update on USDA Biomass R&D Activities
- Update on DOE, EERE, and Biomass R&D Activities
- Overview of the Commercial Aviation Alternative Fuels Initiative (CAAFI)
- Presentations on Advanced Biodigester Systems
- Overview of the Office of Science and Technology Policy and its role on the Biomass Board

Public Participation: In keeping with procedures, members of the public are welcome to observe the business of the Biomass Research and Development Technical Advisory Committee. To attend the meeting and/or to make oral statements regarding any of the items on the agenda, you must contact Elliott Levine at; Email: *Elliott.Levine@ee.doe.gov* and Roy Tiley at (410) 997–7778 ext. 220; Email: *rtiley@bcs-hq.com at least 5 business days* prior to the meeting. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Co-chairs of the Committee will make every effort to hear the views of all interested parties. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. The Co-chairs will conduct the meeting to facilitate the orderly conduct of business.

Minutes: The summary of the meeting will be available for public review and copying at *http://biomassboard.gov/committee/meetings.html.*

Issued at Washington, DC, on August 2, 2016.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2016–18724 Filed 8–5–16; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of the Receivership of 10256—Home National Bank, Blackwell, Oklahoma

NOTICE IS HEREBY GIVEN that the Federal Deposit Insurance Corporation (''FDIC'') as Receiver for Home National Bank, Blackwell, Oklahoma (''the Receiver'') intends to terminate its receivership for said institution. The FDIC was appointed receiver of Home National Bank on July 9, 2010. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this Notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this Notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: August 3, 2016.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2016–18766 Filed 8–5–16; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in

writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 2, 2016.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Equity Bancshares, Inc., Wichita, Kansas,* to acquire 100 percent of the voting shares of Community First Bancshares, Inc., and thereby indirectly acquire control of Community First Bank, both of Harrison, Arkansas.

B. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *United Community Bancorp, Inc., Chatham, Illinois;* for prior approval to acquire Illini Corporation, Springfield, Illinois and thereby indirectly acquire Illini Bank, Springfield, Illinois and Farmers State Bank of Camp Point, Camp Point, Illinois.

Board of Governors of the Federal Reserve System, August 2, 2016.

Michele T. Fennell,

Assistant Secretary of the Board.

[FR Doc. 2016–18691 Filed 8–5–16; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–16–0666]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

National Healthcare Safety Network (NHSN) (OMB No. 0920–0666, Exp. 12/31/2018)—Revision—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The National Healthcare Safety Network (NHSN) is a system designed to accumulate, exchange, and integrate relevant information and resources among private and public stakeholders to support local and national efforts to protect patients and promote healthcare safety. Specifically, the data is used to determine the magnitude of various healthcare-associated adverse events and trends in the rates of these events among patients and healthcare workers with similar risks. The data will be used to detect changes in the epidemiology of adverse events resulting from new and current medical therapies and changing risks. The NHSN currently consists of five components: Patient Safety, Healthcare Personnel Safety, Biovigilance, Long-Term Care Facility (LTCF), and Dialysis. The Outpatient Procedure Component is on track to be released in NHSN in 2017/2018. The development of this component has been previously delayed to obtain additional user feedback and support from outside partners.

Changes were made to six facility surveys and two new facility surveys were added. Based on user feedback and internal reviews of the annual facility surveys it was determined that questions and response options be amended, removed, or added to fit the evolving uses of the annual facility surveys. The surveys are being increasingly used to help intelligently interpret the other data elements reported into NHSN. Currently the surveys are used to appropriately risk adjust the numerator and denominator data entered into NHSN while also guiding decisions on future division priorities for prevention.

Further, three new forms were added to expand NHSN surveillance to pediatric ventilator-associated events, adult sepsis, and custom HAI event surveillance. An additional 14 forms were added to the Hemovigilance Component to streamline data collection/entry for adverse reaction events.

Additionally, minor revisions have been made to 22 forms within the package to clarify and/or update surveillance definitions. The previously approved NHSN package included 52 individual collection forms; the current revision request adds nineteen forms and removes one form for a total of 70 forms. The reporting burden will increase by 489,174 hours, for a total of 5,110,716 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Avg. burden per response (in hrs.)
Registered Nurse (Infection Preventionist)	57.100 NHSN Registration Form	2,000	1	5/60
Registered Nurse (Infection Preventionist)	57.101 Facility Contact Information	2,000	1	10/60

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Avg. burden per response (in hrs.)
Registered Nurse (Infection Preventionist)	57.103 Patient Safety Component—Annual Hospital Survey.	5,000	1	55/60
Registered Nurse (Infection Preventionist)	57.105 Group Contact Information	1,000	1	5/60
Registered Nurse (Infection Preventionist)	57.106 Patient Safety Monthly Reporting Plan.	6,000	12	15/60
Registered Nurse (Infection Preventionist)	57.108 Primary Bloodstream Infection (BSI)	6,000	44	30/60
Registered Nurse (Infection Preventionist)	57.111 Pneumonia (PNEU)	6,000	72	30/60
Registered Nurse (Infection Preventionist)	57.112 Ventilator-Associated Event	6,000	144	25/60
Registered Nurse (Infection Preventionist)	57.113 Pediatric Ventilator-Associated Event (PedVAE).	2,000	120	25/60
Registered Nurse (Infection Preventionist)	57.114 Urinary Tract Infection (UTI)	6,000	40	20/60
Registered Nurse (Infection Preventionist)	57.115 Custom Event	2,000	91	35/60
Staff RN	57.116 Denominators for Neonatal Intensive Care Unit (NICU).	6,000	9	3
Staff RN	57.117 Denominators for Specialty Care Area (SCA)/Oncology (ONC).	6,000	9	5
Staff RN	57.118 Denominators for Intensive Care Unit (ICU)/Other locations (not NICU or SCA).	6,000	60	5
Registered Nurse (Infection Preventionist)	57.120 Surgical Site Infection (SSI)	6,000	36	35/60
Staff RN	57.121 Denominator for Procedure	6,000	540	10/60
Laboratory Technician	57.123 Antimicrobial Use and Resistance (AUR)—Microbiology Data Electronic Upload Specification Tables.	6,000	12	5/60
Pharmacist	57.124 Antimicrobial Use and Resistance (AUR)—Pharmacy Data Electronic Upload Specification Tables.	6,000	12	5/60
Registered Nurse (Infection Preventionist)	57.125 Central Line Insertion Practices Adherence Monitoring.	1,000	100	25/60
Registered Nurse (Infection Preventionist)	57.126 MDRO or CDI Infection Form	6,000	72	30/60
Registered Nurse (Infection Preventionist)	57.127 MDRO and CDI Prevention Process and Outcome Measures Monthly Monitoring.	6,000	24	15/60
Registered Nurse (Infection Preventionist)	57.128 Laboratory-identified MDRO or CDI Event.	6,000	240	20/60
Registered Nurse (Infection Preventionist)	57.129 Adult Sepsis	50	250	25/60
Registered Nurse (Infection Preventionist)	57.137 Long-Term Care Facility Component—Annual Facility Survey.	350	1	1.08
Registered Nurse (Infection Preventionist)	57.138 Laboratory-identified MDRO or CDI Event for LTCF.	350	12	15/60
Registered Nurse (Infection Preventionist)	57.139 MDRO and CDI Prevention Process Measures Monthly Monitoring for LTCF.	350	12	10/60
Registered Nurse (Infection Preventionist)	57.140 Urinary Tract Infection (UTI) for LTCF	350	14	30/60
Registered Nurse (Infection Preventionist)	57.141 Monthly Reporting Plan for LTCF	350	12	5/60
Registered Nurse (Infection Preventionist)	57.142 Denominators for LTCF Locations	350	12	3.35
Registered Nurse (Infection Preventionist)	57.143 Prevention Process Measures Monthly Monitoring for LTCF.	300	12	5/60
Registered Nurse (Infection Preventionist)	57.150 LTAC Annual Survey	400	1	55/60
Registered Nurse (Infection Preventionist)	57.151 Rehab Annual Survey	1,000	1	55/60
Occupational Health RN/Specialist	57.200 Healthcare Personnel Safety Component Annual Facility Survey.	50	1	8
Occupational Health RN/Specialist	57.203 Healthcare Personnel Safety Monthly Reporting Plan.	17,000	1	5/60
Occupational Health RN/Specialist	57.204 Healthcare Worker Demographic Data.	50	200	20/60
Occupational Health RN/Specialist	57.205 Exposure to Blood/Body Fluids	50	50	1
Occupational Health RN/Specialist	57.206 Healthcare Worker Prophylaxis/Treatment.	50	30	15/60
Laboratory Technician	57.207 Follow-Up Laboratory Testing	50	50	15/60
Occupational Health RN/Specialist	57.210 Healthcare Worker Prophylaxis/Treatment—Influenza.	50	50	10/60
Medical/Clinical Laboratory Technologist	57.300 Hemovigilance Module Annual Survey.	500	1	2
Medical/Clinical Laboratory Technologist	57.301 Hemovigilance Module Monthly Reporting Plan.	500	12	1/60
Medical/Clinical Laboratory Technologist	57.303 Hemovigilance Module Monthly Reporting Denominators.	500	12	1.17
Medical/Clinical Laboratory Technologist	57.305 Hemovigilance Incident	500	10	10/60
Medical/Clinical Laboratory Technologist	57.306 Hemovigilance Module Annual Survey—Non-acute care facility.	200	1	35/60

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Avg. burden per response (in hrs.)
Medical/Clinical Laboratory Technologist	57.307 Hemovigilance Adverse Reaction—Acute Hemolytic Transfusion Reaction.	500	4	25/60
Medical/Clinical Laboratory Technologist	57.308 Hemovigilance Adverse Reaction—Allergic Transfusion Reaction.	500	4	25/60
Medical/Clinical Laboratory Technologist	57.309 Hemovigilance Adverse Reaction—Delayed Hemolytic Transfusion Reaction.	500	1	25/60
Medical/Clinical Laboratory Technologist	57.310 Hemovigilance Adverse Reaction—Delayed Serologic Transfusion Reaction.	500	2	25/60
Medical/Clinical Laboratory Technologist	57.311 Hemovigilance Adverse Reaction—Febrile Non-hemolytic Transfusion Reaction.	500	4	25/60
Medical/Clinical Laboratory Technologist	57.312 Hemovigilance Adverse Reaction—Hypotensive Transfusion Reaction.	500	1	25/60
Medical/Clinical Laboratory Technologist	57.313 Hemovigilance Adverse Reaction—Infection.	500	1	25/60
Medical/Clinical Laboratory Technologist	57.314 Hemovigilance Adverse Reaction—Post Transfusion Purpura.	500	1	25/60
Medical/Clinical Laboratory Technologist	57.315 Hemovigilance Adverse Reaction—Transfusion Associated Dyspnea.	500	1	25/60
Medical/Clinical Laboratory Technologist	57.316 Hemovigilance Adverse Reaction—Transfusion Associated Graft vs. Host Disease.	500	1	25/60
Medical/Clinical Laboratory Technologist	57.317 Hemovigilance Adverse Reaction—Transfusion Related Acute Lung Injury.	500	1	25/60
Medical/Clinical Laboratory Technologist	57.318 Hemovigilance Adverse Reaction—Transfusion Associated Circulatory Overload.	500	2	25/60
Medical/Clinical Laboratory Technologist	57.319 Hemovigilance Adverse Reaction—Unknown Transfusion Reaction.	500	1	25/60
Medical/Clinical Laboratory Technologist	57.320 Hemovigilance Adverse Reaction—Other Transfusion Reaction.	500	1	25/60
Medical/Clinical Laboratory Technologist	57.400 Patient Safety Component—Annual Facility Survey for Ambulatory Surgery Center (ASC).	5,000	1	5/60
Staff RN	57.401 Outpatient Procedure Component—Monthly Reporting Plan.	5,000	12	15/60
Staff RN	57.402 Outpatient Procedure Component Event.	5,000	25	40/60
Staff RN	57.403 Outpatient Procedure Component—Monthly Denominators and Summary.	5,000	12	40/60
Staff RN	57.500 Outpatient Dialysis Center Practices Survey.	6,500	1	2.0
Registered Nurse (Infection Preventionist)	57.501 Dialysis Monthly Reporting Plan	6,500	12	5/60
Staff RN	57.502 Dialysis Event	6,500	60	25/60
Staff RN	57.503 Denominator for Outpatient Dialysis	6,500	12	10/60
Staff RN	57.504 Prevention Process Measures Monthly Monitoring for Dialysis.	1,500	12	1.25
Staff RN	57.505 Dialysis Patient Influenza Vaccination	325	75	10/60
Staff RN	57.506 Dialysis Patient Influenza Vaccination Denominator.	325	5	10/60
Staff RN	57.507 Home Dialysis Center Practices Survey.	600	1	25/60

Jeffrey M. Zirger,

Health Scientist, Acting Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2016–18710 Filed 8–5–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–16–0010]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the

proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Birth Defects Study To Evaluate Pregnancy exposureS (BD–STEPS) (formerly titled The National Birth Defects Prevention Study (NBDPS)), (OMB 0920–0010, Expiration 01/31/2017)—Revision—National Center on Birth Defects and Developmental Disabilities (NCBDDD), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC has been monitoring the occurrence of serious birth defects and genetic diseases in Atlanta since 1967 through the Metropolitan Atlanta Congenital Defects Program (MACDP). The MACDP is a population-based surveillance system for birth defects currently covering three counties in Metropolitan Atlanta.

Since 1997, CDC has funded case-control studies of major birth defects that utilize existing birth defect surveillance registries (including MACDP) to identify cases and study birth defects causes in participating states/municipalities across the United States.

The current study, BD–STEPS, is a case-control study that is similar to the previous CDC-funded birth defects case-control study, NBDPS, which stopped interviewing participants in 2013. As with NBDPS, BD–STEPS control infants are randomly selected from birth certificates or birth hospital records; mothers of case and control infants are interviewed using a computer-assisted telephone interview.

The results from NBDPS have improved understanding of the causes of birth defects. Over 200 articles have been written in professional journals using the data from NBDPS, and BD–STEPS data will soon be added to NBDPS data for analysis. The current BD–STEPS revision is an addition to the study population for two BD–STEPS Centers. Specifically, in these two Centers mothers of stillbirths without major birth defects will be added to the study population for BD–STEPS and mothers of all stillbirths (with and without birth defects) and all controls in these two Centers will be asked to participate in a supplemental telephone interview.

The BD–STEPS interview takes approximately forty-five minutes to complete (burden estimate includes both the introductory telephone script/consent and questionnaire). For five Centers, a maximum of 275 interviews are planned per year per center, 200 cases and 75 controls; for the two Centers participating in additional stillbirth interviews, 495 interviews are planned per center, 200 cases with birth defects, 75 controls, and 220 stillbirths without birth defects. With seven centers planned, the maximum interview burden for all centers combined would be approximately 1,774 hours. Mothers in five of the seven BD–STEPS Centers will also be asked to provide consent for the study to access previously collected infant bloodspots. It takes approximately 15 minutes to read, sign and return the informed consent for retrieval of bloodspots. For approximately one fifth of participants, some medical records review will be conducted. The medical records release form takes participants approximately 15 minutes to read, sign and return. In addition, it takes approximately 30 minutes for each medical record reviewer to conduct the review and send the medical record. The online questionnaire will be offered to approximately one third of participants who report certain occupations during the telephone interview; these participants will be asked to complete additional occupational questions via a Web site which will take approximately 20 minutes to answer. In addition, in two Centers, mothers of stillbirths with and without birth defects and controls will be asked to participate in a supplemental telephone interview that will take approximately 25 minutes to complete.

Information gathered from both the interviews and the Deoxyribonucleic acid specimens has been and will continue to be used to study independent genetic and environmental factors as well as gene-environment interactions for a broad range of carefully classified birth defects.

This request is submitted to revise the previously estimated burden details and to request OMB clearance for three additional years. The total estimated annual burden hours are 3,034. There are no costs to the respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondents	Activity	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Mothers (interview)	Telephone consent and BD–STEPS questionnaire.	2,365	1	45/60
Mothers (consent for bloodspot retrieval)	Written consent for bloodspot retrieval	1,375	1	15/60
Mothers (online occupational questionnaire)	Online Occupational Questionnaire	790	1	20/60
Mothers (consent for medical records review)	Written release for medical records review	475	1	15/60
Records reviewers (medical records review)	Pulling and sending records	475	1	30/60
Mothers of all AR/MA stillbirths and controls (supplemental telephone interview).	Telephone consent and supplemental questionnaire.	710	1	25/60

Jeffrey M. Zirger,

Health Scientist, Acting Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2016–18746 Filed 8–5–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living, Administration on Aging

Agency Information Collection Activities; Proposed Collection; Comment Request; State Annual Long-Term Care Ombudsman Report Revised Data Collection to the National Ombudsman Reporting System

AGENCY: Administration for Community Living, Administration on Aging, HHS.

ACTION: Notice.

SUMMARY: The Administration on Community Living, Administration on Aging (ACL/AoA) 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 the information collection requirements relating to the National Ombudsman Reporting System per 45 CFR part 1324.21 and Older Americans Act Title VII.

DATES: Submit written or electronic comments on the collection of information by October 7, 2016.

ADDRESSES: Submit electronic comments on the collection of information to: *louise.ryan@acl.hhs.gov.*

Submit written comments on the collection of information to: U.S. Department of Health and Human Services: Administration for Community Living 701 Fifth Avenue, Suite 1600 M/S RX–33, Seattle, WA 98104, Attention: Louise Ryan.

FOR FURTHER INFORMATION CONTACT: Louise Ryan by telephone: (206) 615–2514 or by email: *louise.ryan@acl.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with PRA (44 U.S.C. 3501–3520), the Administration for Community Living (ACL, formerly the Administration for Aging) has submitted the following proposed collection of information to the Office of Management and Budget (OMB) for review and clearance. The Administration for Community Living/Administration on Aging (ACL/AoA) is requesting approval from the Office of Management and Budget (OMB) for data collection associated with the National Ombudsman Reporting System (NORS).

The report form and instructions have been in continuous use, with minor modifications, since they were first approved by OMB for the FY 1995 reporting period. This request is for approval to revise the data collection tool to enhance ACL's ability to understand and report on: LTCO program operations, experience of long-term care facility residents and to update to reflect changes in: LTC Ombudsman program operations and long-term supports and services policies, research, and practices. States will continue to provide the following data and narrative information in the report:

1. Numbers and descriptions of cases filed and complaints made on behalf of long-term care facility residents to the statewide ombudsman program;

2. Major issues identified impacting on the quality of care and life of long-term care facility residents;

3. Statewide program operations; and

4. Ombudsman activities in addition to complaint investigation.

5. Organizational conflict of interest reporting as required by 45 CFR part 1324.21.

With respect to the following collection of information, ACL/AoA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of ACL/AoA's functions, including whether the information will have practical utility; (2) the accuracy of ACL/AoA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology.

The proposed data collection tools may be found on the ACL/AoA Web site at: *http://www.aoa.acl.gov/AoA_Programs/Elder_Rights/Ombudsman/index.aspx.*

AoA estimates the burden of this additional collection of information as follows: Approximately 7780 hours, with 52 state Ombudsman programs responding annually.

Dated: August 2, 2016.

Edwin L. Walker,

Acting Assistant Secretary for Aging.

[FR Doc. 2016–18736 Filed 8–5–16; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Agency Information Collection Activities: Submission for OMB Review; Comment Request; the National Maltreatment Reporting System

AGENCY: Administration for Community Living, HHS

ACTION: Notice

SUMMARY: The Administration for Community Living (formerly the Administration on Aging (AoA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995. The purpose of this notice is to allow for an additional 30 days of public comment on the information collection requirements relating to the National Adult Maltreatment Reporting System (NAMRS). The proposed collection of information tools may be found in the NAMRS section of the ACL Web site.

DATES: Submit written comments on the collection of information by September 7, 2016.

ADDRESSES: Submit written comments on the collection of information to the Office of Management and Budget, Office for Information and Regulatory Affairs, Attention: Desk Officer for ACL by email: *OIRA_submission@omb.eop.gov* or fax: 202.395.6974.

FOR FURTHER INFORMATION CONTACT: Stephanie Whittier Eliason, Administration for Community Living, 330 C St. SW., Washington, DC 20201; email: *stephanie.whittiereliason@acl.hhs.gov;* telephone: 202.795.7467.

Copies of available documents submitted to OMB may be obtained by contacting Stephanie Whittier Eliason.

SUPPLEMENTARY INFORMATION: In compliance with PRA (44 U.S.C. 3501–3520), the Administration for Community Living (ACL, formerly the Administration for Aging) has submitted the following proposed collection of information to the Office of Management and Budget (OMB) for

review and clearance. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on March 22, 2016.

Authority: This data collection effort is in response to the Elder Justice Act of 2009, which amended title XX of the Social Security Act (42.U.S.C. 13976 *et seq.*). These provisions require that the Secretary of HHS ''collects and disseminates data annually relating to the abuse, exploitation, and neglect of elders in coordination with the Department of Justice'' (Sec. 2041(a)(1)(B)), and ''conducts research related to the provision of adult protective services'' (Sec. 2041(a)(1)(D)). Furthermore, the Elder Justice Coordinating Council (EJCC) included as its third recommendation for increasing federal involvement in addressing elder abuse, neglect, and exploitation: Develop a national adult protective services (APS) system based upon standardized data collection and a core set of service provision standards and best practices.

Background: From 2013–2015, ACL, in partnership with the U.S. Department of Health & Human Services' Office of the Assistant Secretary for Planning and Evaluation (ASPE), developed and pilot tested NAMRS. When implemented, NAMRS will be the first comprehensive, national reporting system for APS programs. NAMRS is intended to collect quantitative and qualitative data on the practices and policies of adult protective services (APS) agencies, as well as the outcomes of investigations into the maltreatment of older adults and adults with disabilities. In developing NAMRS, ACL and ASPE convened key stakeholders to identify data elements that are the most critical for a national system. More than 40 state administrators, researchers, service providers, and other stakeholders provided input in focus group conference calls. Additionally, more than 30 state representatives from 25 different states met in three in-person working sessions to discuss the uses of collected data and the key functionalities. A pilot version of NAMRS was tested in nine (9) diverse states, and refined based on feedback from the pilot and additional stakeholder engagement. A full discussion on the background of NAMRS, including the development of the system, the public engagement process, and the pilot testing can be found in the NAMRS section of the ACL Web site.

Proposed Collection Effort: NAMRS has been developed as a voluntary system to collect annually both summary and de-identified case-level data on APS investigations. NAMRS consists of three components:

(1) ACL proposes to collect descriptive data on state agency policies and practices from all states through the ''Agency Component,'' and

(2) Case-level, non-identifiable data on persons who receive an investigation by APS in response to an allegation of abuse, neglect, or exploitation through the ''Case Component.''

(3) For states that are unable to submit a case-level file through the ''Case Component,'' a ''Key Indicators Component'' will be available for them to submit data on a smaller set of core items.

ACL will provide technical assistance to states to assist in the preparation of their data submissions. Respondents will be state APS agencies and APS agencies in the District of Columbia, Puerto Rico, Guam, Northern Marianas Islands, Virgin Islands, and American Samoa. No personally identifiable information will be collected. ACL has calculated the following burden estimates (information on how the estimates were calculated is available in the NAMRS section of the ACL Web site):

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Agency Component	56	1	13	728
Key Indicators Component	31	1	40	1,240
Case Component	25	1	150	3,750
Estimated Total Annual Burden Hours	.....	.....	.....	5,718

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication of this announcement. Written comments and recommendations for the proposed information collection should be sent directly to the following address: Office of Management and Budget, Paperwork Reduction Project, email: *OIRA_Submission@OMB.EOP.GOV;* Attention: Desk Officer for the Administration for Community Living.

With respect to the collection of information via NAMRS, ACL specifically requests comments on:

(a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

(b) the accuracy of the agency's estimate of the burden of the proposed collection of information;

(c) 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.

Consideration will be given to comments and suggestions submitted within 30 days of this publication. The proposed collection of information tools may be found in the NAMRS section of the ACL Web site.

Dated: August 2, 2016.

Edwin L. Walker,

Acting Assistant Secretary for Aging.

[FR Doc. 2016–18731 Filed 8–5–16; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–0566]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Survey of Alumni Commissioner's Fellowship Program Fellows

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 September 7, 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 title Outcomes Evaluation Survey for Graduates of the FDA Commissioner's Fellowship Program. 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.

Survey of Alumni Commissioner's Fellowship Program Fellows—OMB Control Number 0910–NEW

FDA is requesting approval from the Office of Management and Budget to gather information from Alumni Commissioner's Fellowship Program (CFP) Fellows. The information from Alumni CFP Fellows will allow FDA's Office of the Commissioner (OC) to easily and efficiently elicit and review program feedback. The online survey will assist the Agency in promoting and protecting the public health by encouraging outside persons to share their experience with the FDA while a Commissioner's Fellow. The process will reduce the time and cost of submitting written documentation to the Agency and lessen the likelihood of surveys being misrouted within the Agency mail system. The information gathered by the survey will be used to gain insights into, and to document, impacts that the CFP has had and is having on former CFP fellows and contributions and impacts that the former fellows are making in their current work. The surveys include questions to assess the following measures: Post-fellowship employment (*e.g.,* employment type); number of awards; number of contributions while a CFP fellow (*e.g.,* number of publications, guidances authored or co-authored); and contributions in their field (*e.g.,* list of publications).

In the **Federal Register** of February 24, 2016 (81 FR 9202), 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]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Fellowship Program Survey	35	1	35	0.50 (30 minutes)	17.5

[1] There are no capital costs or operating maintenance costs associated with this collection of information.

FDA based these estimates on the number of fellows that have graduated and left the Agency over the past 5 years.

Dated: August 2, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–18711 Filed 8–5–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–2062]

Determination That BENTYL (Dicyclomine Hydrochloride) Syrup 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 007961	BENTYL	Dicyclomine Hydrochloride (HCl).	10 milligrams (mg)/5 milliliters (mL).	Syrup; Oral	Aptalis Pharma US, Inc.
NDA 011721	NEPTAZANE	Methazolamide	25 mg; 50 mg	Tablet; Oral	Lederle Laboratories.
NDA 016418	INDERAL	Propranolol HCl	10 mg; 20 mg; 40 mg; 60 mg	Tablet; Oral	Wyeth Pharmaceuticals, Inc., a subsidiary of Pfizer Inc.
NDA 021410	AVANDAMET	Metformin HCl; Rosiglitazone Maleate.	500 mg/Equivalent to (EQ) 2 mg base; 500 mg/EQ 4 mg base; 1 g/EQ 2 mg base; 1 g/EQ 4 mg base.	Tablet; Oral	SmithKline Beecham (Cork) Ltd, Ireland.
NDA 021494	AXID	Nizatidine	15 mg/mL	Solution; Oral	Braintree Laboratories, Inc.
NDA 050505	GARAMYCIN	Gentamicin Sulfate.	EQ 2 mg base/mL	Injectable; Intrathecal.	Schering-Plough Corp.
ANDA 061716	GARAMYCIN	Gentamicin Sulfate.	EQ 1 mg base/mL; EQ 40 mg base/mL.	Injectable; Injection.	Schering-Plough Corp.
ANDA 061739	GARAMYCIN	Gentamicin Sulfate.	EQ 10 mg base/mL	Injectable; Injection.	Schering-Plough Corp.
ANDA 080745	ARISTOCORT and ARISTOCORT A.	Triamcinolone Acetonide.	0.5%	Ointment; Topical.	Astellas Pharma US, Inc.
ANDA 083944	KENALOG	Triamcinolone Acetonide.	0.5%	Ointment; Topical.	Delcor Asset Corp.

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: August 2, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–18707 Filed 8–5–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–D–0453]

Deciding When To Submit a 510(k) for a Software Change to an Existing Device; Draft Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of the draft guidance entitled ''Deciding When to Submit a 510(k) for a Software Change to an Existing Device.'' FDA is issuing this draft guidance document to clarify when a software change in a legally marketed medical device would require that a manufacturer submit a premarket notification (510(k)) to FDA. This draft guidance is not final nor is it in effect at this time.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment of this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by November 7, 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–2011–D–0453 for ''Deciding When to Submit a 510(k) for a Software Change to an Existing Device.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

An electronic copy of the guidance document is available for download from the Internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the draft guidance document entitled ''Deciding When to Submit a 510(k) for a Software Change to an Existing Device'' to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002; or to the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Linda Ricci, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1314, Silver Spring, MD 20993–0002, 301–796–6325, *linda.ricci@fda.hhs.gov;* or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

A premarket notification (510(k)) is required when a legally marketed device subject to 510(k) requirements is about to be significantly changed or modified in design, components, method of manufacture, or intended use. Significant changes or modifications are those that could significantly affect the safety or effectiveness of the device, or those that constitute major changes or modifications in the intended use of the device (21 CFR 807.81(a)(3)). This guidance, when finalized, will aid manufacturers of medical devices who intend to make a software modification to a 510(k)-cleared device or a preamendments device subject to 510(k) (*i.e.,* ''existing devices'') during the process of deciding whether the software modification exceeds the regulatory threshold of § 807.81(a)(3) for submission and clearance of a new 510(k).

This draft guidance specifically addresses software design and technology modifications. This draft guidance does not apply to software for which the Agency has stated in guidance that it does not intend to enforce compliance with applicable regulatory controls (see, *e.g.,* ''Mobile Medical Applications: Guidance for Industry and FDA Staff,'' issued February 9, 2015, available on the Internet at *http://www.fda.gov/downloads/MedicalDevices/.../UCM263366.pdf*).

Elsewhere in this issue of the **Federal Register**, FDA is announcing the availability of the guidance document entitled ''Deciding When to Submit a 510(k) for a Change to an Existing Device,'' to aid manufacturers of medical devices who intend to make non-software changes to an existing device during the process of deciding whether the modification exceeds the regulatory threshold of § 807.81(a)(3) for submission and clearance of a new 510(k).

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on when to submit a 510(k) for a software change to an existing device. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by downloading an electronic copy from the Internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* Guidance documents are also available at *http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/default.htm* or *http://www.regulations.gov.* Persons unable to download an electronic copy of ''Deciding When to Submit a 510(k) for a Software Change to an Existing Device'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 1500055 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 820 are approved under OMB control number 0910–0073; the collections of information in 21 CFR part 807, subpart E are approved under OMB control number 0910–0120; the collections of information in 21 CFR part 803 are approved under OMB control number 0910–0437; and the collections of information in 21 CFR parts 801 are approved under OMB control number 0910–0485.

Dated: August 2, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–18714 Filed 8–5–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2016-D-2021]

Deciding When To Submit a 510(k) for a Change to an Existing Device; Draft Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of the draft guidance entitled ''Deciding When to Submit a 510(k) for a Change to an Existing Device.'' FDA is issuing this draft guidance document to clarify when a change in a legally marketed medical device would require that a manufacturer submit a premarket notification (510(k)) to FDA. When finalized, this document will supersede ''Deciding When to Submit a 510(k) for a Change to an Existing Device'' issued January 10, 1997. This draft guidance is not final nor is it in effect at this time.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment of this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by November 7, 2016.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA-2016-D-2021 for ''Deciding When to Submit a 510(k) for a Change to an Existing Device.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

An electronic copy of the guidance document is available for download from the Internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the draft guidance document entitled ''Deciding When to Submit a 510(k) for a Change to an Existing Device'' to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002; or the Office of Communication, Outreach, and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Michael Ryan, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1615, Silver Spring, MD 20993–0002, 301–796–6283, *michael.ryan@fda.hhs.gov; or* Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

A premarket notification (510(k)) is required when a legally marketed device subject to 510(k) requirements is about to be significantly changed or modified in design, components, method of manufacture, or intended use. Significant changes or modifications are those that could significantly affect the safety or effectiveness of the device, or major changes or modifications in the intended use of the device (21 CFR 807.81(a)(3)). This guidance, when finalized, will aid manufacturers of medical devices who intend to modify a 510(k)-cleared device or a preamendments device subject to 510(k) (*i.e.,* ''existing devices'') during the process of deciding whether the modification exceeds the regulatory threshold of 21 CFR 807.81(a)(3) for submission and clearance of a new 510(k).

This guidance, when finalized, will supersede the original ''Deciding When to Submit a 510(k) for a Change to an Existing Device,'' issued on January 10, 1997. That guidance provided the Agency's interpretation of whether the modification exceeds the regulatory threshold of 21 CFR 807.81(a)(3), with principles and points for manufacturers to consider in analyzing how changes in devices may affect safety or effectiveness and determining whether a new 510(k) must be submitted for a particular type of change. This draft guidance preserves the basic format and content of the original, with updates to add clarity. The added clarity is intended to increase consistent interpretations of the guidance by FDA staff and manufacturers.

Elsewhere in this issue of the **Federal Register**, FDA is announcing the availability of the guidance document entitled ''Deciding When to Submit a 510(k) for a Software Change to an Existing Device'' to aid manufacturers of medical devices who intend to make software changes to an existing device during the process of deciding whether the software modification exceeds the regulatory threshold of 21 CFR 807.81(a)(3) for submission and clearance of a new 510(k).

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on when to submit a 510(k) for a change to an existing device. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by downloading an electronic copy from the Internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* Guidance documents are also available at *http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/default.htm* or *http://www.regulations.gov.* Persons unable to download an electronic copy of ''Deciding When to Submit a 510(k) for a Change to an Existing Device'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 1500054 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 820 are approved under OMB control number 0910–0073; the collections of information in 21 CFR part 807, subpart E are approved under OMB control number 0910–0120; the collections of information in 21 CFR part 803 have been approved under OMB control number 0910–0437; and the collections of information in 21 CFR parts 801 and 809 are approved under OMB control number 0910–0485.

Dated: *August 2, 2016.*

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–18713 Filed 8–5–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–1092]

Over-the-Counter Monograph User Fees: Reopening of Comment Period; Stakeholder Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting; reopening of comment period; stakeholder meeting.

SUMMARY: The Food and Drug Administration (FDA) is reopening the comment period for the document that announced a public meeting in the **Federal Register** of May 11, 2016. In the document, FDA invited public comment as the Agency considers a user-fee program for nonprescription (over-the-counter or OTC) monograph drugs. FDA will hold a Webinar for stakeholders on September 6, 2016. This Webinar is intended to be a followup to the June 10, 2016, public meeting on this topic and to provide stakeholders with a status update on the process of FDA and industry discussions that began in July 2016.

DATES: Submit either electronic or written comments by October 6, 2016. FDA will hold a Webinar for stakeholders on Tuesday, September 6, 2016, from 10:30 a.m. to 12 p.m. EDT.

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–1092 for ''Over-the-Counter Monograph User Fees: Reopening of Comment Period; Stakeholder Meeting.'' 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: Amy Bertha, Office of Executive Programs, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–1647, email: *OTCMonographUserFeeProgram@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA is reopening until October 6, 2016, the comment period for the document that announced a public meeting in the **Federal Register** of May 11, 2016 (81 FR 29275). In the document, FDA invited public comment as the Agency considers a user-fee program for nonprescription (over-the-counter or OTC) monograph drugs. A user-fee program would provide funding to supplement congressional non-user-fee appropriations, and would support timely and efficient FDA review of the efficacy and safety of ingredients included in or proposed for inclusion in a monograph. A public meeting on this topic was held on June 10, 2016, and interested persons were given until July 11, 2016, to submit comments. To ensure that all interested persons have sufficient opportunity to share their views on a potential OTC monograph user-fee program, FDA is reopening the comment period until October 6, 2016.

FDA will hold a Webinar for stakeholders on September 6, 2016. This Webinar is intended to be a followup to the June 10, 2016, public meeting and provide stakeholders with a status update on the process of FDA and industry discussions that began in July 2016. Meeting minutes from these discussions can be found at: *http://www.fda.gov/omuf.* Additional background information on OTC monograph drugs (such as how OTC drugs can be marketed, the differences between marketing through approved applications and marketing under the monographs), factors FDA considers important in developing a user-fee program, and the questions FDA asked the public to consider and provide input, can be found in the **Federal Register** document from the June 10, 2106, public meeting (*https://www.federalregister.gov/articles/2016/05/11/2016-11098/over-the-counter-monograph-user-fees-public-meeting-request-for-comments*). The meeting transcript, meeting recording, and presentations from the June 10, 2016, public meeting, which can serve as further background information, can be found at: *http://www.fda.gov/Drugs/NewsEvents/ucm499390.htm.*

II. Stakeholder Meeting Participation

FDA is seeking participation at the Webinar by stakeholders, including scientific and academic experts, health care professionals, representatives of patient and consumer advocacy groups, and representatives of the OTC monograph industry. Participating in the Webinar is free. The Webinar format will include presentations by FDA staff and an opportunity for stakeholders to ask questions. If you wish to attend the Webinar, FDA asks that you please register through Eventbrite by Tuesday, August 30, 2016 (*https://www.eventbrite.com/e/over-the-counter-monograph-user-fees-stakeholder-meeting-tickets-26751882601*). FDA will email the registered attendees a URL to join the Webinar at least 1 day before the meeting.

Dated August 3, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–18717 Filed 8–5–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–1805]

Retrospective Review of Premarket Approval Application Devices; Striking the Balance Between Premarket and Postmarket Data Collection

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is announcing the completion of the target of the goal established to address the Center for Devices and Radiological Health's (CDRH) 2014–2015 Strategic Priority ''Strike the Right Balance Between Premarket and Postmarket Data Collection.'' To achieve this Strategic Priority, CDRH established a goal to assure the appropriate balance between premarket and postmarket data

collection to facilitate and expedite the development and review of medical devices, in particular high-risk devices of public health importance. We established a target date of December 31, 2015, by which to review 100 percent of product codes subject to a premarket approval application (PMA) that are legally marketed and were approved prior to 2010 to determine, for each such product code, whether or not, based on our current understanding of the technology, to reduce premarket data collection by relying more on postmarket controls, and whether to shift some premarket data collection to the postmarket setting or to pursue down-classification.

DATES: Submit either electronic or written comments by October 7, 2016.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2015–N–1805 for ''Retrospective Review of Premarket Approval Application Devices; Striking the Balance Between Premarket and Postmarket Data Collection.'' 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: Nancy Braier, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5454, Silver Spring, MD 20993–0002, 301–796–5676.

SUPPLEMENTARY INFORMATION:

I. Background

One of three Strategic Priorities for 2014–2015 in CDRH is to ''Strike the Right Balance Between Premarket and Postmarket Data Collection'' (Ref. 1).[1] CDRH's vision is for patients in the United States to have first-in-the-world access to high-quality, safe, and effective medical devices of public health importance. A key determinant of early U.S. patient access to high-quality, safe, and effective devices is the extent of premarket data that device developers provide to FDA. Once a device developer decides to seek U.S. marketing approval or clearance, the extent of data that are collected premarket has an impact upon the length of time needed to complete a premarket submission—the more data to be collected premarket, the longer it may take to acquire the data and make the submission. Consequently, such data collection issues affect when U.S. patients have access to a medical device. On the other hand, it is also important that there are sufficient data to demonstrate a reasonable assurance of safety and effectiveness before a device that is subject to a premarket approval application (PMA) is approved for marketing in the United States. For this reason, it is important that CDRH strike the right balance between premarket and postmarket data collection. If CDRH can shift, when appropriate, some premarket data collection to the postmarket setting, CDRH could improve patient access to high-quality, safe, and effective medical devices of public health importance. However, patient safety could be undermined if, after determining that certain data could appropriately be shifted from the premarket to the postmarket setting, CDRH shifted that data collection to the postmarket setting without adequate assurances that necessary and timely postmarket data collection will occur. For this reason, CDRH strives to balance the premarket data and postmarket collection, in accordance with section 513(a)(3)(C) (21 U.S.C. 360c(a)(3)(C)) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act), which directs CDRH to consider whether the extent of data that otherwise would be required for

[1] CDRH's 2014–2015 Strategic Priorities include ''Strengthen the Clinical Trial Enterprise'' and ''Provide Excellent Customer Service'' in addition to ''Strike the Right Balance Between Premarket and Postmarket Data Collection'' (Ref. 1).

approval of a PMA with respect to effectiveness can be reduced through reliance on postmarket controls.

In order to achieve the proper balance between premarket and postmarket data collection, CDRH resolved in its Strategic Priorities for 2014–2015 to take several actions. CDRH committed to developing and seeking public comment on a framework for when it would be appropriate to shift premarket data collection to the postmarket setting. Pursuant to this commitment, CDRH and the Center for Biologics Evaluation and Research (CBER) issued the guidance, ''Balancing Premarket and Postmarket Data Collection for Devices Subject to Premarket Approval,'' on April 13, 2015 (80 FR 19672), which provided FDA's policy of balancing premarket and postmarket data collection during the Agency's review of PMAs (Ref. 2). This guidance outlines how FDA would consider the role of postmarket information in determining the appropriate type and amount of data that should be collected in the premarket setting to support premarket approval, while still meeting the statutory standard of a reasonable assurance of safety and effectiveness. Furthermore, under existing authorities, CDRH and CBER issued a guidance document on April 13, 2015 (80 FR 19669), entitled ''Expedited Access for Premarket Approval Medical Devices Intended for Unmet Medical Need for Life Threatening or Irreversibly Debilitating Diseases or Conditions'' (Ref. 3). This guidance describes FDA's voluntary expedited access PMA program for certain medical devices to facilitate patient access to these devices by expediting the development, assessment, and review of certain devices that demonstrate the potential to address unmet medical needs for life threatening or irreversibly debilitating diseases or conditions. To expedite access for devices addressing unmet needs, this pathway to market shifts appropriate components of premarket data collection to the postmarket setting, while maintaining the statutory standard of a reasonable assurance of safety and effectiveness. In addition, CDRH has developed a mechanism to assure prospectively the appropriate balance of premarket and postmarket data collection for new devices subject to a PMA. Specifically, when CDRH issues a final decision for an original PMA or panel-track supplement to a PMA, CDRH conducts a prospective assessment to determine if the device type is a candidate for shifting some premarket data collection to the postmarket, reducing premarket data collection through reliance on postmarket controls or reclassification.

Another action in pursuit of the goal to strike the right balance between premarket and postmarket data collection was to commit to conducting a retrospective review of all PMA product codes (procodes) with active PMAs approved prior to 2010 to determine whether data typically collected premarket could be shifted to the postmarket setting, and whether premarket data collection could be reduced through reliance on postmarket controls or devices could be reclassified (down-classified) in light of our current understanding of the technology (Ref. 1). In general, some premarket data collections for class III devices that are currently marketed may be reduced through reliance on postmarket controls or shifted to the postmarket setting if warranted, based on CDRH's review experience as well as the postmarket performance and the current body of evidence regarding the benefit-risk profile of these devices. CDRH currently receives PMA submissions on the majority of these class III devices, and a change in premarket data collection is expected to expedite the approval of future PMA submissions. CDRH has periodically taken such actions consistent with the medical device statutory framework but has typically done so on an ad hoc basis. On the other hand, when FDA determines that it is necessary to provide reasonable assurance that a device is safe and effective, CDRH may require more data based on our current understanding of that type of technology or based on an issue raised by the data submitted by a sponsor for their device. CDRH will also up-classify a device, if warranted, based on the current state of the science. For example, on January 5, 2016, CDRH issued a final order up-classifying surgical mesh when intended for use for pelvic organ prolapse (81 FR 354), and on June 2, 2014, CDRH issued a final order up-classifying sunlamps and sunlamp products (tanning beds/booths) (79 FR 31205). However, up-classification is not warranted for the devices subject to this retrospective review, because they are already in the highest risk classification.

During this retrospective review, devices were analyzed according to procodes. CDRH targeted the date of December 31, 2014, by which to review 50 percent of the procodes for devices that are subject to a PMA and are legally marketed to determine whether or not to change premarket data collection by shifting the data collection to the postmarket setting, reducing premarket data collection through reliance on postmarket controls, or pursuing reclassification (Ref. 1). This target extended to have 75 percent completed by June 30, 2015, and 100 percent completed by December 31, 2015.

On April 29, 2015, CDRH announced its progress on this priority and solicited comments on the procodes that were identified as candidates for reclassification, a reduction in premarket data collection through reliance on postmarket controls, or a shift in premarket data collection to postmarket for those procodes reviewed through December 31, 2014 (80 FR 23798). FDA received 11 sets of comments, which generally supported FDA's retrospective review effort and provided input on specific procodes that were identified as candidates for reclassification or were determined to remain class III with no changes in data collection. FDA will consider these comments when making final determinations on the reclassification of these procodes.

During 2015, FDA reviewed the remaining procodes that were identified for the retrospective review. While completing the retrospective review, FDA found that the LMX procode was included in the retrospective review in error, because the jaundice meter device type is covered by a different procode, not within the scope of the retrospective review. The jaundice meter device type is classified under 21 CFR 862.1113 and assigned the procode MQM, and accordingly, this device type requires a 510(k) premarket notification. Therefore, the procode LMX has been excluded from the analysis.

The purpose of this **Federal Register** notice is to solicit comments on the remaining procodes that have been identified as candidates for reclassification, a reduction in premarket data collection through reliance on postmarket controls, or a shift in premarket data collection to postmarket for those procodes reviewed through December 31, 2015. Efforts to reclassify and to communicate changes to data collections with stakeholders will be prioritized based on both the public health impact and Center resources.

II. Achievement of Goal Targets

Retrospective analysis of the class III medical device procodes was intended to determine if current classifications and data collections remain appropriate for determining a reasonable assurance of safety and effectiveness. As our understanding of the technology associated with individual medical devices has increased and we have a better understanding of the risks

associated with the technology of each device, our understanding of the type and amount of data that are needed to demonstrate a reasonable assurance of safety and effectiveness also evolves. We use this evolution in our understanding to require the least burdensome amount of data necessary to evaluate device effectiveness, following the least burdensome provisions of the FD&C Act (section 513(a)(3)(D)(ii)). Under section 513 of the FD&C Act, a device is a class III device and requires premarket approval if general controls and special controls are insufficient to provide reasonable assurance of the safety and effectiveness of the device, and if the device is to be used for supporting or sustaining human life or of substantial importance in preventing impairment of human health or if the device presents a potential unreasonable risk of illness or injury. In order to reclassify a class III device into class II, the device must meet the statutory criteria for class II: A device that cannot be classified as a class I device, because general controls are insufficient to provide reasonable assurance of the safety and effectiveness of the device, and for which there is sufficient information to establish special controls to provide such assurance. As new information becomes available over time, the accumulated information available for a device may be sufficient to establish special controls to provide a reasonable assurance of safety and effectiveness; therefore, the classification of the device may be changed either up or down.

In February 2014, CDRH began its retrospective review with procodes associated with active PMAs approved prior to 2010. PMA procodes created since 2010 were not included in this retrospective review because these recently created procodes do not yet have sufficient new information for a change in FDA's current understanding of the device's postmarket performance profile. As of December 31, 2015, CDRH reviewed all procodes included in this retrospective review, meeting its 100 percent review target.

The results of this analysis include recommendations for procodes that are candidates for reclassification, a reduction in premarket data collection through reliance on postmarket controls, or a shift in premarket data collection to postmarket collection. These results are published online, along with the results of the first cohort of procodes at *http://www.fda.gov/AboutFDA/CentersOffices/OfficeofMedicalProductsandTobacco/CDRH/CDRHVisionandMission/default.htm* (Ref. 4). The results of this second cohort of procodes reviewed for this analysis are additive to those previously reported. CDRH is continuing to consider the comments received on the first cohort of procodes reported in April 2015, and efforts to reclassify and to communicate changes to data collections with stakeholders are being prioritized based on both the public health impact and Center resources. The following paragraph describes the organization of the results into tables, which are available for public review online (Ref. 4).

As discussed in further detail below, for the purposes of this retrospective review, we evaluated each procode on a balance of factors to determine the current benefit-risk profile and if our review indicates special controls could be established to provide a reasonable assurance of safety and effectiveness. If so, the corresponding procode was listed in the category ''Candidates for Reclassification to Class II'' (table 1). If it was determined that special controls would not be sufficient to provide reasonable assurance of the safety and effectiveness of the device, then the procode was evaluated to determine if some premarket data collection for PMA submission could be shifted to postmarket collection, or if premarket data collection could be reduced through reliance on postmarket controls. If it was determined that a change of data collection could continue to provide reasonable assurance of the safety and effectiveness of the device, then the procode was listed in the category ''Candidates for reduction of data collection through reliance on postmarket controls or shift of data collection from premarket to postmarket'' (table 2). This category includes procodes for which premarket data collection could be shifted to postmarket data collection, premarket data collection could be decreased through reliance on postmarket controls, or postmarket data could no longer be needed. Finally, table 3 includes procodes for which a reduction in data collection through reliance on postmarket controls or shift in data collection from premarket to postmarket and/or reclassification occurred in 2015 during FDA's retrospective review of PMAs.

In this retrospective review, postmarket performance data, technology and performance considerations, and other relevant considerations were evaluated for each procode. These factors were used to evaluate the current benefit-risk profile to determine if the devices are good candidates for a reduction in premarket data collection through reliance on postmarket controls, a shift of premarket data collection to postmarket, or reclassification. Postmarket performance data (including recent PMA Annual Reports, literature reviews, total product lifecycle reports, medical device reporting analysis, market penetration, and recall analysis) were investigated for any performance concerns or problems that outpace any increases in device use or acceptance. In evaluating the technology and performance considerations for the procodes, performance concerns or problems that were uncovered in the review of postmarket data were considered unfavorable factors for a change in data collection or reclassification. Favorable factors to indicate that a device is a good candidate for a change in data collection or reclassification included: Whether risks are now well understood and are determined to be moderate to low; technology uncertainties have been alleviated; performance standards or non-clinical tests have been developed that could be surrogates for some clinical testing; the need for a controlled study could be eliminated due to defined objective performance criteria; the device has been shown to have good short-term performance; or concerns are limited to long-term performance or rare adverse events.

Finally, several relevant considerations were evaluated for each procode. Unfavorable factors for devices to be considered candidates for a change in data collection or reclassification included: Whether there have been significant changes implemented to address safety or effectiveness since the devices have been on the market; whether the review of annual reports and manufacturing changes has been important to maintain safety of the devices; whether there were a limited number of approvals or limited clinical use of the devices, due to inadequate data needed to conduct this scientific assessment.

After completion of this retrospective review, FDA will prioritize the procodes identified as candidates for reclassification (table 1, Ref. 4) according to public health impact and Center resources, in order to determine the top priority procodes for which reclassification would have the greatest impact. The procodes identified as top priority candidates for reclassification will proceed through the reclassification procedures according to 21 CFR part 860. FDA will also prioritize the procodes identified as candidates for a change in data collection (table 2, Ref. 4) according to public health impact and Center resources, in order to determine which reductions of or shifts to data collection would have the greatest

impact. FDA encourages firms to submit a presubmission to get feedback on their data collection plan or contact the appropriate review branch for additional information if they are in the process of developing a device in one of these categories.

III. Paperwork Reduction Act of 1995

This document refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 814 have been approved under OMB control number 0910–0231.

IV. References

The following references have been placed on display in the Division of Dockets Management (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they are also available electronically at *http://www.regulations.gov.* FDA has verified the Web site addresses, as of the date this document publishes in the **Federal Register**, but Web sites are subject to change over time.

1. FDA, ''CDRH 2014–2015 Strategic Priorities,'' 2014, *http://www.fda.gov/downloads/AboutFDA/CentersOffices/OfficeofMedicalProductsandTobacco/CDRH/CDRHVisionandMission/UCM384576.pdf.*
2. ''Guidance for Industry and FDA Staff: Balancing Premarket and Postmarket Data Collection for Devices Subject to Premarket Approval,'' April 2015, *http://www.fda.gov/ucm/groups/fdagov-public/@fdagov-meddev-gen/documents/document/ucm393994.pdf.*
3. ''Guidance for Industry and FDA Staff: Expedited Access for Premarket Approval and De Novo Medical Devices Intended for Unmet Medical Need for Life Threatening or Irreversibly Debilitating Diseases or Conditions,'' April 2015, *http://www.fda.gov/ucm/groups/fdagov-public/@fdagov-meddev-gen/documents/document/ucm393978.pdf.*
4. ''Second and final cohort of Results of the 2014–2015 Strategic Priority: Strike the Right Balance between Premarket and Postmarket Data Collection, '' available at *http://www.fda.gov/AboutFDA/CentersOffices/OfficeofMedicalProductsandTobacco/CDRH/CDRHVisionandMission/default.htm.*

Dated: August 2, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–18672 Filed 8–5–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–D–2319]

Ulcerative Colitis: Clinical Trial Endpoints; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Ulcerative Colitis: Clinical Trial Endpoints.'' The purpose of this guidance is to assist sponsors in the clinical development of drugs for the treatment of ulcerative colitis (UC) in adult and pediatric patients. Specifically, this guidance addresses FDA's current thinking regarding efficacy endpoints for UC clinical trials.

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 October 7, 2016.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2016–D–2319 for ''Ulcerative Colitis: Clinical Trial Endpoints; Draft Guidance for Industry; Availability.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Kevin Bugin, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 5232, Silver Spring, MD 20993–0002, 301–796–2302.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Ulcerative Colitis: Clinical Trial Endpoints.'' The purpose of this draft guidance is to assist sponsors in the clinical development of drugs for the treatment of UC in adult and pediatric patients. Specifically, this draft guidance addresses FDA's current thinking regarding efficacy endpoints for UC clinical trials.

UC is a chronic, relapsing disease characterized by diffuse mucosal inflammation of the colon. UC involves the rectum and it may extend proximally in a contiguous pattern to affect part of the colon or the entire colon. Clinical manifestations of active disease include bloody diarrhea (with or without mucus), urgency, tenesmus, abdominal pain, weight loss, fever, and malaise. In patients with extensive or severe inflammation, acute complications such as severe bleeding and toxic megacolon may occur. There is an increased risk of colorectal cancer in UC patients compared to the general population; risk factors include long duration of disease, extensive colonic involvement, severe inflammation and epithelial dysplasia, and childhood-onset disease. The signs and symptoms of UC in adults and children are similar; however, abdominal pain, disease involving the entire colon, extra-intestinal manifestations, proctitis (among girls), and disease severity necessitating colectomy are more common in children.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on clinical trial endpoints for UC. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. The Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR parts 312 and 314 have been approved under OMB control numbers 0910–0014 and 0910–0001, respectively.

IV. Electronic Access

Persons with access to the Internet may obtain the draft guidance at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov*.

Dated: August 3, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–18716 Filed 8–5–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Statement of Organization, Functions and Delegations of Authority

This notice amends Part R of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services (HHS), Health Resources and Services Administration (HRSA) (60 FR 56605, as amended November 6, 1995; as last amended at 81 FR 25680 dated April 29, 2016).

This notice reflects organizational changes in the Health Resources and Services Administration (HRSA), HIV/AIDS Bureau (RV). Specifically, this notice: (1) Establishes the Office of Program Support; (RV3); (2) transfers the organizational development, training and technological functions from the Office of Operations and Management (RV2) and the communications, grantee oversight and customer service functions from the Office of the Associate Administrator (RV) to the newly established Office of Program Support (RV3); and (3) updates the functional statement for the Office of Operations and Management (RV2), the Division of Administrative Operations (RV21), and the Office of the Associate Administrator (RV).

Chapter RV—HIV/AIDS Bureau

Section RV–10, Organization

Delete the organization for the Office of the Associate Administrator (RA) in its entirety and replace with the following:

The HIV/AIDS Bureau is headed by the Associate Administrator, who reports directly to the Administrator, Health Resources and Services Administration.

(1) Office of the Associate Administrator (RV);

(2) Office of Operations and Management (RV2);

a. Division of Administrative Operations (RV21);

(3) Office of Program Support (RV3);

(4) Division of Policy and Data (RVA);

(5) Division of Metropolitan HIV/AIDS Programs (RV5);

(6) Division of State HIV/AIDS Programs (RVD);

(7) Division of Community HIV/AIDS Programs (RV6); and

(8) Office of HIV/AIDS Training and Capacity Development (RVT);

a. Division of Domestic Programs; and

b. Division of Global Programs.

Section RV–20, Functions

This notice reflects organizational changes in the Health Resources and Services Administration (HRSA), HIV/AIDS Bureau (RV). Specifically, this notice: (1) Establishes the Office of Program Support; (RV3); (2) transfers the organizational development, training and technological functions from the Office of Operations and Management (RV2) and the communications, grantee oversight and customer service functions from the Office of the Associate Administrator (RV) to the newly established Office of Program Support (RV3); and (3) updates the functional statement for the Office of Operations and Management (RV2), the Division of Administrative Operations (RV21), and the Office of the Associate Administrator (RV).

Delete the function for the following: (1) Office of the Associate Administrator (RV); (2) Office of Operations and Management (RV2); and the Division of

Administrative Operations (RV21); replace in their entirety.

Office of the Associate Administrator (RV)

The Office of the Associate Administrator provides leadership and direction for the HIV/AIDS programs and activities of the Bureau and oversees its relationship with other national health programs. Specifically: (1) promotes the implementation of the National HIV/AIDS Strategy within the Agency and among Agency-funded programs; (2) coordinates the formulation of an overall strategy and policy for programs established by Title XXVI of the PHS Act as amended by the Ryan White HIV/AIDS Treatment Extension Act of 2009, P.L. 111–87; (3) coordinates the internal functions of the Bureau and its relationships with other Agency Bureaus and Offices; (4) establishes HIV/AIDS program objectives, alternatives, and policy positions consistent with broad Administration guidelines; (5) provides leadership for and oversight of the Bureau's budgetary development and implementation processes; (6) provides clinical leadership to Ryan White-funded programs and global HIV/AIDS programs; (7) oversees the implementation of the Global HIV/AIDS Program as part of the President's Emergency Plan for AIDS Relief; (8) serves as a principal contact and advisor to the Department and other parties on matters pertaining to the planning and development of HIV/AIDS-related health delivery systems; (9) reviews HIV/AIDS related program activities to determine their consistency with established policies; (10) develops and oversees operating policies and procedures for the Bureau; (11) oversees and directs the planning, implementation, and evaluation of special studies related to HIV/AIDS and public health within the Bureau; (12) prioritizes technical assistance needs in consultation with each division/office; (13) plans, implements, and evaluates the Bureau's national technical assistance resource training center Web site and other distance learning modalities; (14) represents the Agency in HIV/AIDS related conferences, consultations, and meetings with other Operating Divisions, Office of the Assistant Secretary for Health, the Department of State, and the White House; and (15) oversees Bureau Executive Secretariat functions and coordinates HRSA responses and comments on HIV/AIDS-related reports, position papers, guidance documents, correspondence, and related issues, including Freedom of Information Act requests.

Office of Operations and Management (RV2)

The Office of Operations and Management provides expertise guidance, leadership, and support in the areas of general administration, fiscal operations, and contract administration. The Office of Operations and Management is responsible for providing direction on all budgetary, administrative, human resources, operations, facility management and contracting functions for the HIV/AIDS Bureau. The Office also oversees and coordinates all Bureau program integrity activities.

Division of Administrative Operations (RV21)

The Division of Administrative Operations is responsible for the administrative, human resources operations, facility management and contracting functions for the Bureau. Specifically, these functions are carried out in the Administrative Services and Contracting Services Team.

Office of Program Support (RV3)

The Office of Program Support provides expertise, guidance, leadership, and support in the areas of organizational development, communications, grantee oversight, and customer service to support program implementation. Specifically, the Office of Program Support: (1) enhances the coordination of program support, grants management, and technical assistance across the entire Bureau; (2) plans, implements and evaluates HAB staff development and education to enable employees to meet the mission of the Bureau; (3) streamlines communications, clearance activities and development of consistent, quality presentations; (4) improves the Bureau's external facing communication efforts; (5) facilitates transparency in sharing the Bureau's data using internal and external resources; (6) provides leadership for and oversees Bureau's grants processes; (7) coordinates the grants liaison activities; (8) supports grantee oversight and improves customer service and technical assistance to grantees; (9) serves as the Bureau's primary liaison with the Office of Federal Assistance Management; (10) supports systems development to improve program efficiencies and management; (11) provides support with the implementation of staff development, organizational development and training activities; (12) plans, develops, implements and evaluates the Bureau's organizational and staff development, and staff training activities inclusive of guiding action steps addressing annual Employee Viewpoint Survey results; and (13) coordinates the development and distribution of all Bureau communication activities, materials and products internally and externally.

Delegations of Authority

All delegations of authority and re-delegations of authority made to HRSA officials that were in effect immediately prior to this reorganization, and that are consistent with this reorganization, shall continue in effect pending further re-delegation.

This reorganization is effective upon date of signature.

Dated: August 1, 2016.

James Macrae,

Acting Administrator.

[FR Doc. 2016–18730 Filed 8–5–16; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism, Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Initial Review Group; Biomedical Research Review Subcommittee.

Date: October 18, 2016.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Alcohol Abuse and Alcoholism, National Institutes of Health, Conference Room 3002–3004, 5635 Fishers Lane, Rockville, MD 20852.

Contact Person: Philippe Marmillot, Ph.D., Scientific Review Officer, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, 5635 Fishers Lane, Room

2019, Bethesda, MD 20892, 301–443–2861, *marmillotp@mail.nih.gov.*

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Initial Review Group; Neuroscience Review Subcommittee.

Date: October 27, 2016.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Terrace Level Conference Room 508–509, 5635 Fishers Lane, Rockville, MD 20852.

Contact Person: Beata Buzas, Ph.D., Scientific Review Officer, National Institute On Alcohol Abuse and Alcoholism, National Institutes of Health, 5635 Fishers Lane, Rm. 2081, Rockville, MD 20852, 301–443–0800, *bbuzas@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: August 2, 2016.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–18688 Filed 8–5–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The invention listed below is owned by an agency of the U.S. Government and is available for licensing and/or co-development in the U.S. in accordance with 35 U.S.C. 209 and 37 CFR part 404 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing and/or co-development.

ADDRESSES: Invention Development and Marketing Unit, Technology Transfer Center, National Cancer Institute, 9609 Medical Center Drive, Mail Stop 9702, Rockville, MD 20850–9702.

FOR FURTHER INFORMATION CONTACT: Information on licensing and co-development research collaborations, and copies of the U.S. patent applications listed below may be obtained by contacting: Attn. Invention Development and Marketing Unit, Technology Transfer Center, National Cancer Institute, 9609 Medical Center Drive, Mail Stop 9702, Rockville, MD, 20850–9702, Tel. 240–276–5515 or email *ncitechtransfer@mail.nih.gov.* A signed Confidential Disclosure Agreement may be required to receive copies of the patent applications.

SUPPLEMENTARY INFORMATION: Technology description follows.

Title of invention: Synthetic Human-Derived Peptides and Peptidomimetics for Cancer Therapeutics

Keywords: Rpn13, selective proteasome inhibitor, proteasome ubiquitin receptors, (competition: carfilzomib and bortezomib too toxic, resistance developed), solid tumors, hematological cancer, HPV associated cancer, ovarian cancer, prostate cancer, gastric cancer, breast cancer, or colorectal cancer

Description of Technology: FDA approved 26S proteasome inhibitors, such as carfilzomib and bortezomib (Velcade®) have proven to be effective at treating hematologic cancers. However, resistance to these agents as well as their toxicity have raised concerns and highlight the need for new 26S proteasome inhibitors.

Investigators at the NCI's Structural Biophysics Laboratory have developed a new class of proteasome inhibitors. They are hRpn2-derived peptides capable of specifically targeting the Pru domain of hRpn13. Disruption of the Rpn2/Rpn13 interaction inhibits proteolysis by a mechanism that differs from those of the approved proteasome inhibitors.

Potential Commercial Applications:

- New class of proteasome inhibitors, targeting hRpn13 of the regulatory particle.

Value Proposition:

- Synergistic with, and more specific than, known proteasome inhibitors.
- Alternate mechanism of action compared to approved proteasome inhibitors.

Development Stage: Discovery (Lead ID).

Inventor(s): Kylie J. Walters (NCI), Fen Liu (NCI), and Xiuxiu Lu (NCI).

Intellectual Property:

HHS Reference No. E–278–2015/0–US–01.

US Provisional Application 62/222,530 (HHS Reference No. E–278–2015) filed September 23, 2015 entitled ''Human RPN2 Derived Peptides Useful For Treating Cancer''.

Publications: 1. Lu X., et al., 2015 PLoS One 2015 Oct 14;10(10) PMID: 26466095.

Contact Information: Requests for copies of the patent application or inquiries about licensing, research collaborations, and co-development opportunities should be sent to John D. Hewes, Ph.D., email: *john.hewes@nih.gov.*

Dated: July 26, 2016.

John D. Hewes,

Technology Transfer Specialist, Technology Transfer Center, National Cancer Institute.

[FR Doc. 2016–18689 Filed 8–5–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App. 2), notice is hereby given of the meeting of the National Cancer Advisory Board (NCAB).

The meeting will be open to the public as indicated below, 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. The open session will be videocast and can be accessed from the NIH Videocasting and Podcasting Web site (*http://videocast.nih.gov*).

A portion of the National Cancer Advisory Board 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 Cancer Advisory Board.

Open: September 7, 2016, 9:00 a.m. to 05:00 p.m.

Agenda: Programs reports and presentations; business of the Board.

Place: National Institutes of Health, Building 31, C-Wing, 6th Floor, Room 10, 9000 Rockville Pike, Bethesda, MD 20892.

Closed: September 7, 2016, 04:00 p.m. to 05:00 p.m.

Agenda: Review of NCAB grant applications.

Place: National Institutes of Health, Building 31, C-Wing, 6th Floor, Room 10, 9000 Rockville Pike, Bethesda, MD 20892.

Contact Person: Paulette S. Gray, Ph.D., Director, Division of Extramural Activities, National Cancer Institute—Shady Grove, National Institutes of Health, 9609 Medical Center Drive, Room 7W444, Bethesda, MD 20892, 240–276–6340, *grayp@mail.nih.gov.*

Any interested person may file written comments with the committee 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 of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page, NCAB: *http://deainfo.nci.nih.gov/advisory/ncab/ncab.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: August 2, 2016.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–18686 Filed 8–5–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflicts: Consequences of Aging.

Date: August 15, 2016.

Time: 3:30 p.m. to 6:00 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: Pat Manos, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5200, MSC 7846, Bethesda, MD 20892, 301–408–9866, *manospa@csr.nih.gov.*

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: August 2, 2016.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–18687 Filed 8–5–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Modification of the National Customs Automation Program (NCAP) Test Concerning the Automated Commercial Environment (ACE) Portal Accounts To Establish the Protest Filer Account and Clarification That the Terms and Conditions for Account Access Apply to All ACE Portal Accounts

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.

SUMMARY: This document announces U.S. Customs and Border Protection's (CBP's) plan to modify the National Customs Automation Program (NCAP) test concerning Automated Commercial Environment (ACE) Portal Accounts to establish the ACE Protest Filer Account. After CBP deploys the ACE Protest Module test at a later date, participants with an ACE Protest Filer Account will be able to file an electronic protest in ACE. This document also clarifies that CBP's previously published terms and conditions governing access to and use of the NCAP test of ACE Portal Accounts apply to all ACE Portal Accounts, including all ACE Portal Account types created after the previously published terms and conditions. All other aspects of the ACE Portal Accounts Test remain the same as set forth in previously published **Federal Register** notices.

DATES: The modifications and clarifications of the ACE Portal Account Test made by this notice are effective on August 8, 2016.

The clarification to the terms and conditions applies to all ACE Portal Accounts regardless of when the account was created.

ADDRESSES: Comments concerning this notice and any aspect of the modified ACE Portal Account Test may be submitted at any time during the testing period via email to Josephine Baiamonte, ACE Business Office (ABO), Office of Trade at *josephine.baiamonte@cbp.dhs.gov.* In the subject line of your email, please indicate, ''Comment on ACE Portal Account Test FRN''.

FOR FURTHER INFORMATION CONTACT: For technical questions related to the application or requests for an ACE Portal Account, including ACE Protest Filer Accounts, contact the ACE Account Service Desk by calling 1–866–530–4172, selecting option 1, then option 2, or by emailing *ACE.Support@cbp.dhs.gov* for assistance.

SUPPLEMENTARY INFORMATION:

I. Automated Commercial Environment (ACE)

A. The National Customs Automation Program

The National Customs Automation Program (NCAP) was established by Subtitle B of Title VI—Customs Modernization in the North American Free Trade Agreement (NAFTA) Implementation Act (Customs Modernization Act) (Pub. L. 103–182, 107 Stat. 2057, 2170, December 8, 1993) (19 U.S.C. 1411). Through NCAP, the thrust of customs modernization was on trade compliance and the development of ACE, the planned successor to the Automated Commercial System (ACS). ACE is an automated and electronic system for commercial trade processing which is intended to streamline business processes, facilitate growth in trade, ensure cargo security, and foster participation in global commerce, while ensuring compliance with U.S. laws and regulations and reducing costs for CBP and all of its communities of interest. The ability to meet these objectives depends on successfully modernizing

CBP's business functions and the information technology that supports those functions. CBP's modernization efforts are accomplished through phased releases of ACE component functionality designed to replace specific legacy ACS functions and add new functionality.

The procedures and criteria applicable to participation in the ACE Portal Account Test remain in effect unless otherwise explicitly changed by this notice.

B. ACE Portal Accounts

On May 1, 2002, the former U.S. Customs Service, now CBP, published a general notice in the **Federal Register** (67 FR 21800) announcing a plan to conduct an NCAP test of the first phase of ACE. The test was described as the first step toward the full electronic processing of commercial importations with a focus on defining and establishing an importer's account structure. That general notice announced that importers and authorized parties would be allowed to access their customs data via an Internet-based Portal Account. The notice also set forth eligibility criteria for companies interested in establishing ACE Portal Accounts.

Subsequent general notices expanded the types of ACE Portal Accounts. On February 4, 2004, CBP published a general notice in the **Federal Register** (69 FR 5360) that established ACE Truck Carrier Accounts. On September 8, 2004, CBP published a general notice in the **Federal Register** (69 FR 54302) inviting customs brokers to participate in the ACE Portal Account Test generally and informing interested parties that once they had been notified by CBP that their request to participate in the ACE Portal Account Test had been accepted, they would be asked to sign and submit a ''Terms and Conditions'' document. CBP subsequently contacted those participants and asked them to also sign and submit an ACE Power of Attorney form and an Additional Account/Account Owner Information form. On October 18, 2007, CBP published a general notice in the **Federal Register** (72 FR 59105) announcing the expansion of the ACE Portal Account Test to include the additional following ACE account types: Carriers (all modes: Air, rail, sea); Cartman; Lighterman; Driver/Crew; Facility Operator; Filer; Foreign Trade Zone (FTZ) Operator; Service Provider; and Surety. More recently, on October 21, 2015, CBP published a general notice in the **Federal Register** (80 FR 63817) announcing the creation of the Exporter Portal Account.

C. Terms and Conditions for Access to the ACE Portal Account

On May 16, 2007, CBP published a general notice in the **Federal Register** (72 FR 27632) announcing changes to the terms and conditions that must be followed as a condition for access to the ACE Portal Account and announcing that the terms and conditions in that notice superseded and replaced the ''Terms and Conditions'' document previously signed and submitted to CBP by all ACE Portal Account Owners. The principal changes to the ACE ''Terms and Conditions'' included a revised definition of ''Account Owner'' to permit either an individual or a legal entity to serve in this capacity, new requirements relating to providing notice to CBP when there has been a material change in the status of the Account and/or Account Owner, and explanatory provisions as to how the information from a particular account may be accessed through the ACE Portal when that account is transferred to a new owner. Prior to the publication of the May 16, 2007 Notice, all parties wishing to establish an ACE Portal Account had to sign and submit to CBP a ''Terms and Conditions'' document prior to accessing the ACE Portal. The ''Terms and Conditions'' document set forth the obligations and responsibilities of all parties establishing and accessing an ACE Portal Account. Because the ''Terms and Conditions'' document that all ACE Portal Accounts had to execute was standard and identical, and due to the burden on the trade to sign and submit the document to CBP and on CBP to track and maintain the documents submitted, CBP decided to replace the ''Terms and Conditions'' document and instead publish the terms and conditions in the May 16, 2007 Notice. That notice made the terms and conditions therein applicable to all ACE Portal Accounts. The terms and conditions published in that notice superseded, replaced and rendered null and void all previously signed and submitted ''Terms and Conditions'' documents. The terms and conditions set forth in the notice also appear on the introductory screen for the ACE Portal and must be accepted by any party seeking access to an ACE Portal Account.

On July 7, 2008, CBP published a general notice in the **Federal Register** (73 FR 38464) which revised the terms and conditions set forth in the May 16, 2007 Notice regarding the period of Portal inactivity which will result in termination of ACE Portal Account access for the inactive user. The July 7, 2008 Notice provided that if forty-five (45) consecutive days elapse without an Account Owner, Proxy Account Owner, or an Account User accessing the ACE Portal Account, access to the ACE Portal Account will be terminated. The time period for allowable ACE Portal Account inactivity was previously ninety (90) days.

The failure of a Proxy Account Owner or an Account User to access the ACE Portal for a period of forty-five (45) days consecutively will result in the termination of access to the ACE Portal for the Proxy Account Owner or Account User. Inactivity will not result in termination of the ACE Portal Account, but will terminate ACE Portal Account access for the inactive user. Access may be restored by calling the Help Desk or by following the ''forgot your password'' prompt found on the ACE Portal log-in page. Access may only be restored upon re-authorization by the Account Owner.

D. ACE Non-Portal Accounts

CBP has also permitted certain parties to participate in ACE without establishing ACE Portal Accounts, *i.e.,* ''Non-Portal Accounts''. On October 24, 2005, CBP published a general notice in the **Federal Register** (70 FR 61466) announcing that CBP would no longer require importers to establish ACE Portal Accounts in order to deposit estimated duties and fees as a part of a Periodic Monthly Statement (PMS). CBP decided it would only require importers to establish a Non-Portal Account to participate in PMS.

On March 29, 2006, CBP published another general notice in the **Federal Register** (71 FR 15756) announcing that truck carriers who do not have ACE Portal Accounts may use third parties to transmit truck manifest information on their behalf electronically in the ACE Truck Manifest system via Electronic Data Interface (EDI) messaging. Truck carriers who elect to use this transmission method will not have access to operating data and will not receive status messages on ACE transactions, nor will they have access to integrated ACE Portal Account data from multiple system sources.

II. Protest

Pursuant to 19 U.S.C. 1514, certain parties may file a protest to challenge a CBP decision regarding the classification, appraisement, rate and amount of duties chargeable, certain charges and exactions, the exclusion of merchandise, the liquidation of an entry, and the refusal to pay a claim for drawback, within 180 days of the date

of liquidation, *i.e.,* the date on which CBP's decision becomes final. The CBP regulations implementing the protest statute are codified in part 174 of title 19 of the Code of Federal Regulations (19 CFR 174).

Parties authorized to file a protest include importers or consignees for an entry, or their sureties; persons paying any charge or exaction; persons seeking entry or delivery; persons filing a claim for drawback; exporters or producers of the merchandise subject to a determination of origin under section 202 of the NAFTA Implementation Act, if the exporter or producer completed and signed a NAFTA Certificate of Origin covering the merchandise; or the authorized agent of any of these persons. *See* 19 CFR 174.12(a). When a protest is filed by a person acting as an agent for the principal that agent must have a power of attorney that grants authority to the agent to make, sign and file a protest on behalf of the protesting party in accordance with 19 CFR 174.3.

III. Authorization for the ACE Portal Account Test

The Customs Modernization Act authorizes the Commissioner of CBP to conduct limited test programs or procedures designed to evaluate planned components of the NCAP. The ACE Portal Account Test, as modified in this notice, is authorized pursuant to 19 CFR 101.9(b), which provides for the testing of NCAP programs or procedures. *See* Treasury Decision (T.D.) 95–21.

IV. Modification of the ACE Portal Account Test

A. Protest Filer Account

This document announces the modification of the ACE Portal Account Test to establish the Protest Filer Account. CBP will conduct a test of the ACE Protest Module functionality at a later date in which a party with an established Protest Filer Account will be able to submit an electronic protest to ACE for processing by CBP. CBP anticipates publishing a subsequent notice in the **Federal Register** to announce initiation of the ACE Protest Module test.

The owner of an ACE Protest Filer Account will have the ability to create and maintain through the ACE Portal information regarding the name, address, and contact information for the corporate and individual account owner for the Protest Filer Account. Protest filers will use the existing account structure established for other accounts within the ACE Portal.

New ACE users without an existing Portal Account will be required to apply to establish a new ACE Protest Filer Account, as explained in Section B.1 below. An application to establish an ACE Protest Filer Account by new ACE users requires the account owner to provide information required to complete the account setup process. Existing ACE Portal Account owners should follow instructions in Section B.2 below. Current ACE account holders must request a protest filer account view within their existing Portal Account to access the ACE Protest Module functions.

ACE Portal Account Test participants must agree to the previously published ''Terms and Conditions for Account Access of the Automated Commercial Environment (ACE) Portal,'' as clarified by this notice. *See* 72 FR 27632 (May 16, 2007) and 73 FR 38464 (July 7, 2008). New ACE users will be prompted to accept these Terms and Conditions during the application process. Upon completion of the application process, the applicant will receive an email message and be prompted to log in with the protest filer's username and password which will create the ACE Protest Filer Account. Once an account is created, the protest filer will be provided with ''protest filer view'' from the protest filer home page.

B. Establishing a Protest Filer Account

1. New ACE Portal Account Owner

Parties who do not have an ACE Portal Account may apply for a Protest Filer Account according to the instructions online at: *http://www.cbp.gov/trade/automated/getting-started/using-ace-secure-data-portal.* Applicants will be required to complete an on-line application and provide the ''Organization Information'' and ''ACE Account Owner'' information listed below and certify that the applicant has read and agrees to the Terms and Conditions. The account validation process will begin once all steps have been completed.

Organization Information:

(1) Protest Filer Number (Employer Identification Number, Social Security Number, or CBP Assigned Number)
(2) Organization Name
(3) Organization Type
(4) End of Fiscal Year (month and day)
(5) Mailing Address

ACE Account Owner:

(1) Name
(2) Date of Birth
(3) Email Address
(4) Telephone Number
(5) Fax Number (optional)

Once the applicant completes and submits the Protest Filer Account application, the applicant will receive an email message to confirm submission of the application and direct the applicant how to log on to ACE to complete the account. Applicants who have not received an email message within 24 hours should contact the ACE Account Service Desk. The ''Application to Use the Automated Commercial Environment'' is an approved information collection under OMB control number 1651–0105. Comments are currently being accepted concerning the renewal of this information collection. *See* 81 FR 38727 (June 14, 2016).

2. Existing ACE Portal Account Owners

Parties that have an existing ACE Portal Account may request a Protest Filer Account through their established ACE Portal Account. A Protest Filer Account may be created under existing accounts by navigating to the Protest Filer view under the Accounts tab of the ACE Portal (available in all existing ACE Portal Accounts), selecting Create a Protest Filer, and following the step by step guided creation process to complete the account set up. Additional training materials on general account maintenance are available at *https://www.cbp.gov/trade/ace/training-and-reference-guides.* For additional assistance on ACE Accounts, contact the ACE Service Desk.

V. Clarification of the ACE Portal Account Test

At the time CBP published the May 16, 2007 Notice setting forth the terms and conditions governing the administration, access, and use of ACE Portal Accounts and the responsibilities and obligations applicable to all parties accessing ACE Portal Accounts, there were three types of ACE Portal Accounts: Importer; broker; and carrier. Subsequently, CBP created additional account types, such as the surety, foreign trade zone operator, and exporter accounts, and as established by this notice, the Protest Filer Account. This notice clarifies that the terms and conditions that CBP has published governing ACE Portal Account access and use, and any modifications thereof that CBP publishes, apply to all ACE Portal Accounts and account types regardless of when the account was established or the account type created. All other aspects of the ACE Portal Accounts Test remain the same as set forth in previously published **Federal Register** notices.

VI. Comments

All interested parties are invited to comment on any aspect of this modification and clarification of the ACE Portal Account Test for the duration of the test. CBP requests comments and feedback on all aspects of this test and this clarification in order to determine whether to modify, alter, expand, limit, continue, end, or fully implement this test.

VII. Misconduct Under the Test

A test participant may be subject to civil and criminal penalties, administrative sanctions, liquidated damages, or discontinuance from participation in the ACE Portal Account Test, as modified by this notice, for any of the following:

(1) Failure to follow the terms and conditions of this test;

(2) Failure to exercise reasonable care in the execution of participant obligations;

(3) Failure to abide by applicable laws and regulations that have not been waived; or

(4) Failure to deposit duties, taxes or fees in a timely manner.

If the Director, Business Transformation Division, ACE Business Office (ABO), Office of Trade, finds that there is a basis for discontinuance of test participation privileges, the test participant will be provided a written notice proposing the discontinuance with a description of the facts or conduct warranting the action. The test participant will be offered the opportunity to appeal the Director's decision in writing within 10 calendar days of receipt of the written notice. The appeal must be submitted to the Executive Director, ABO, Office of Trade, by emailing *Deborah.Augustin@cbp.dhs.gov.*

The Executive Director will issue a decision in writing on the proposed action within 30 working days after receiving a timely filed appeal from the test participant. If no timely appeal is received, the proposed notice becomes the final decision of the Agency as of the date that the appeal period expires. A proposed discontinuance of a test participant's privileges will not take effect unless the appeal process under this paragraph has been concluded with a written decision adverse to the test participant.

In the case of willfulness or those in which public health, interest, or safety so requires, the Director, Business Transformation Division, ABO, Office of Trade, may immediately discontinue the test participant's privileges upon written notice to the test participant. The notice will contain a description of the facts or conduct warranting the immediate action. The test participant will be offered the opportunity to appeal the Director's decision within 10 calendar days of receipt of the written notice providing for immediate discontinuance. The appeal must be submitted to the Executive Director, ABO, Office of Trade, by emailing *Deborah.Augustin@cbp.dhs.gov.* The immediate discontinuance will remain in effect during the appeal period. The Executive Director will issue a decision in writing on the discontinuance within 15 working days after receiving a timely filed appeal from the test participant. If no timely appeal is received, the notice becomes the final decision of the Agency as of the date that the appeal period expires.

VIII. Development of ACE Prototypes

A chronological listing of **Federal Register** publications detailing ACE test developments is set forth below.

- ACE Portal Accounts and Subsequent Revision Notices: 67 FR 21800 (May 1, 2002); 69 FR 5360 and 69 FR 5362 (February 4, 2004); 69 FR 54302 (September 8, 2004); 70 FR 5199 (February 1, 2005).
- ACE System of Records Notice: 71 FR 3109 (January 19, 2006).
- Terms/Conditions for Access to the ACE Portal and Subsequent Revisions: 72 FR 27632 (May 16, 2007); 73 FR 38464 (July 7, 2008).
- ACE Non-Portal Accounts and Related Notice: 70 FR 61466 (October 24, 2005); 71 FR 15756 (March 29, 2006).
- ACE Entry Summary, Accounts and Revenue (ESAR I) Capabilities: 72 FR 59105 (October 18, 2007).
- ACE Entry Summary, Accounts and Revenue (ESAR II) Capabilities: 73 FR 50337 (August 26, 2008); 74 FR 9826 (March 6, 2009).
- ACE Entry Summary, Accounts and Revenue (ESAR III) Capabilities: 74 FR 69129 (December 30, 2009).
- ACE Entry Summary, Accounts and Revenue (ESAR IV) Capabilities: 76 FR 37136 (June 24, 2011).
- Post-Entry Amendment (PEA) Processing Test: 76 FR 37136 (June 24, 2011).
- ACE Announcement of a New Start Date for the National Customs Automation Program Test of Automated Manifest Capabilities for Ocean and Rail Carriers: 76 FR 42721 (July 19, 2011).
- ACE Simplified Entry: 76 FR 69755 (November 9, 2011).
- National Customs Automation Program (NCAP) Tests Concerning Automated Commercial Environment (ACE) Document Image System (DIS): 77 FR 20835 (April 6, 2012).
- National Customs Automation Program (NCAP) Tests Concerning Automated Commercial Environment (ACE) Simplified Entry: Modification of Participant Selection Criteria and Application Process: 77 FR 48527 (August 14, 2012).
- Modification of National Customs Automation Program (NCAP) Test Regarding Reconciliation for Filing Certain Post-Importation Preferential Tariff Treatment Claims under Certain FTAs: 78 FR 27984 (May 13, 2013).
- Modification of Two National Customs Automation Program (NCAP) Tests Concerning Automated Commercial Environment (ACE) Document Image System (DIS) and Simplified Entry (SE): 78 FR 44142 (July 23, 2013).
- Modification of Two National Customs Automation Program (NCAP) Tests Concerning Automated Commercial Environment (ACE) Document Image System (DIS) and Simplified Entry (SE); Correction: 78 FR 53466 (August 29, 2013).
- Modification of National Customs Automation Program Test Concerning Automated Commercial Environment (ACE) Cargo Release (formerly known as Simplified Entry): 78 FR 66039 (November 4, 2013).
- Post-Summary Corrections to Entry Summaries Filed in ACE Pursuant to the ESAR IV Test: Modifications and Clarifications: 78 FR 69434 (November 19, 2013).
- National Customs Automation Program (NCAP) Test Concerning the Submission of Certain Data Required by the Environmental Protection Agency and the Food Safety and Inspection Service Using the Partner Government Agency Message Set Through the Automated Commercial Environment (ACE): 78 FR 75931 (December 13, 2013).
- Modification of National Customs Automation Program (NCAP) Test Concerning Automated Commercial Environment (ACE) Cargo Release for Ocean and Rail Carriers: 79 FR 6210 (February 3, 2014).
- Modification of National Customs Automation Program (NCAP) Test Concerning Automated Commercial Environment (ACE) Cargo Release to Allow Importers and Brokers to Certify From ACE Entry Summary: 79 FR 24744 (May 1, 2014).
- Modification of National Customs Automation Program (NCAP) Test Concerning Automated Commercial Environment (ACE) Cargo Release for Truck Carriers: 79 FR 25142 (May 2, 2014).

• Modification of National Customs Automation Program (NCAP) Test Concerning Automated Commercial Environment (ACE) Document Image System: 79 FR 36083 (June 25, 2014).

• Announcement of eBond Test: 79 FR 70881 (November 28, 2014).

• eBond Test Modifications and Clarifications: Continuous Bond Executed Prior to or Outside the eBond Test May Be Converted to an eBond by the Surety and Principal, Termination of an eBond by Filing Identification Number, and Email Address Correction: 80 FR 899 (January 7, 2015).

• Modification of National Customs Automation Program (NCAP) Test Concerning Automated Commercial Environment (ACE) Document Image System Relating to Animal and Plant Health Inspection Service (APHIS) Document Submissions: 80 FR 5126 (January 30, 2015).

• Modification of National Customs Automation Program (NCAP) Test Concerning the use of Partner Government Agency Message Set through the Automated Commercial Environment (ACE) for the Submission of Certain Data Required by the Environmental Protection Agency (EPA): 80 FR 6098 (February 4, 2015).

• Announcement of Modification of ACE Cargo Release Test to Permit the Combined Filing of Cargo Release and Importer Security Filing (ISF) Data: 80 FR 7487 (February 10, 2015).

• Modification of National Customs Automation Program (NCAP) Test Concerning ACE Cargo Release for Type 03 Entries and Advanced Capabilities for Truck Carriers: 80 FR 16414 (March 27, 2015).

• Automated Commercial Environment (ACE) Export Manifest for Air Cargo Test: 80 FR 39790 (July 10, 2015).

• National Customs Automation Program (NCAP) Concerning Remote Location Filing Entry Procedures in the Automated Commercial Environment (ACE) and the Use of the Document Image System for the Submission of Invoices and the Use of eBonds for the Transmission of Single Transaction Bonds: 80 FR 40079 (July 13, 2015).

• Modification of National Customs Automation Program (NCAP) Test Concerning the Automated Commercial Environment (ACE) Partner Government Agency (PGA) Message Set Regarding Types of Transportation Modes and Certain Data Required by the National Highway Traffic Safety Administration (NHTSA): 80 FR 47938 (August 10, 2015).

• Automated Commercial Environment (ACE) Export Manifest for Vessel Cargo Test: 80 FR 50644 (August 20, 2015).

• Modification of National Customs Automation Program (NCAP) Test Concerning the Submission of Certain Data Required by the Food and Drug Administration (FDA) Using the Partner Government Agency Message Set through the Automated Commercial Environment (ACE): 80 FR 52051 (August 27, 2015).

• Automated Commercial Environment (ACE) Export Manifest for Rail Cargo Test: 80 FR 54305 (September 9, 2015).

• International Trade Data System Test Concerning the Electronic Submission to the Automated Commercial Environment of Data Using the Partner Government Agency Message Set: 80 FR 59721 (October 2, 2015).

• Modification of the National Customs Automation Program (NCAP) Test Concerning the Automated Commercial Environment (ACE) Document Image System (DIS) Regarding Future Updates and New Method of Submission of Accepted Documents: 80 FR 62082 (October 15, 2015).

• Modification of the National Customs Automation Program (NCAP) Test Concerning the Automated Commercial Environment (ACE) Cargo Release for Entry Type 52 and Certain Other Modes of Transportation: 80 FR 63576 (October 20, 2015).

• Modification of the National Customs Automation Program (NCAP) Test Concerning the Automated Commercial Environment (ACE) Entry Summary, Accounts and Revenue (ESAR) Test of Automated Entry Summary Types 51 and 52 and Certain Modes of Transportation: 80 FR 63815 (October 21, 2015).

• Modification of the National Customs Automation Program Test Concerning the Automated Commercial Environment Portal Account to Establish the Exporter Portal Account: 80 FR 63817 (October 21, 2015).

• Modification of National Customs Automation Program (NCAP) Test Concerning the Automated Commercial Environment (ACE) Partner Government Agency (PGA) Message Set Regarding the Toxic Substances Control Act (TSCA) Certification Required by the Environmental Protection Agency (EPA): 81 FR 7133 (February 10, 2016).

• Notice Announcing the Automated Commercial Environment (ACE) as the Sole CBP-Authorized Electronic Data Interchange (EDI) System for Processing Certain Electronic Entry and Entry Summary Filings: 81 FR 10264 (February 29, 2016).

• Modification of the National Customs Automation Program (NCAP); Test Concerning the Partner Government Agency Message Set for Certain Data Required by the Environmental Protection Agency (EPA): 81 FR 13399 (March 14, 2016).

• Cessation of National Customs Automation Program (NCAP) Test Concerning the Submission of Certain Data Required by the Food and Drug Administration (FDA) Using the Partner Government Agency (PGA) Message Set Through the Automated Commercial Environment (ACE): 81 FR 18634 (March 31, 2016).

• Automated Commercial Environment (ACE); Announcement of National Customs Automation Program Test of the In-Transit Manifest Pilot Program: 81 FR 24837 (April 27, 2016).

• Announcement of National Customs Automation Program (NCAP) Test Concerning the Submission through the Automated Commercial Environment (ACE) of Certain Import Data and Documents Required by the U.S. Fish and Wildlife Service: 81 FR 27149 (May 5, 2016).

• Notice Announcing the Automated Commercial Environment (ACE) as the Sole CBP-Authorized Electronic Data Interchange (EDI) System for Processing Certain Electronic Entry and Entry Summary Filings Accompanied by Food and Drug Administration (FDA) Data: 81 FR 30320 (May 16, 2016).

• Notice Announcing the Automated Commercial Environment (ACE) as the Sole CBP-Authorized Electronic Data Interchange (EDI) System for Processing Electronic Entry and Entry Summary Filings: 81 FR 32339 (May 23, 2016).

• Notice Announcing the Automated Commercial Environment (ACE) Protest Module as the Sole CBP-Authorized Method for Filing Electronic Protests: 81 FR 49685 (July 28, 2016).

Dated: August 2, 2016.

Brenda B. Smith,

Executive Assistant Commissioner, Office of Trade.

[FR Doc. 2016–18757 Filed 8–5–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[K00103 12/13 A3A10; 134D0102DR–DS5A300000–DR.5A311.IA000113]

Advisory Board for Exceptional Children

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of meeting.

SUMMARY: The Bureau of Indian Education (BIE) is announcing that the Advisory Board for Exceptional Children (Advisory Board) will hold its next meeting in Lawrence, Kansas. The purpose of the meeting is to meet the mandates of the Individuals with Disabilities Education Act of 2004 (IDEA) for Indian children with disabilities.

DATES: The Advisory Board will meet on Thursday, September 15, 2016, from 8:30 a.m. to 4:30 p.m. Central Time and Friday, September 16, 2016, from 8:30 a.m. to 4:30 p.m. Central Time.

ADDRESSES: The meeting will be held at the Regents Room, Navarre Hall, Haskell Indian Nations University, 155 Indian Avenue, Lawrence, Kansas 66046, telephone number (202) 208–2352.

FOR FURTHER INFORMATION CONTACT: Sue Bement, Designated Federal Officer, Bureau of Indian Education, Office of the Associate Deputy Director—Tribally Controlled Schools, 2001 Killebrew Drive, Suite 122, Bloomington, MN 55425; telephone number (952) 851–5423.

SUPPLEMENTARY INFORMATION: The Advisory Board was established under the Individuals with Disabilities Act of 2004 (20 U.S.C. 1400 *et seq.*) to advise the Secretary of the Interior, through the Assistant Secretary-Indian Affairs, on the needs of Indian children with disabilities. The meetings are open to the public.

The following items will be on the agenda:

- Introduction of Advisory Board members
- Report from Donald Griffin, Supervisory Education Specialist, BIE, Division of Performance and Accountability
- Report from BIE Director's Office
- Board work on Priorities for 2016
- Public comment (via conference call, September 16, 2016 meeting only*)
- Advisory Board advice and recommendations

* During the September 16, 2016 meeting, time has been set aside for public comment via conference call from 1:30–2:00 p.m. Central Time. The call-in information is: Conference Number 1–888–417–0376, Passcode 1509140.

Dated: August 1, 2016.

Lawrence S. Roberts,

Principal Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 2016–18718 Filed 8–5–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRSS–EQD–SSB–21662; PPAKGAARC6 PPMPRLE1Z.LS0000 (166)]

Information Collection Request Sent to the Office of Management and Budget (OMB) for Approval; Community Harvest Assessments for Alaskan National Parks, Preserves, and Monuments

AGENCY: National Park Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (National Park Service, NPS) are asking the Office of Management and Budget (OMB) to approve the Information Collection Request (ICR) described below. The National Park Service (NPS) is requesting approval of a previously approved collection that will be used to survey subsistence hunters in Alaska. As required by the Paperwork Reduction Act of 1995 and as a part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other federal agencies to comment on this ICR. 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 your comments on this ICR are considered, OMB must receive them on or before September 7, 2016.

ADDRESSES: Please direct all written comments on this ICR directly to the Office of Management and Budget (OMB) Office of Information and Regulatory Affairs, Attention: Desk Officer for the Department of the Interior, to *OIRA_Submission@omb.eop.gov* (email) or 202–395–5806 (fax); and identify your submission as 1024–0262 AKHARVEST Please also send a copy of your comments to Phadrea Ponds, Information Collection Coordinator, National Park Service, 1201 Oakridge Drive, Fort Collins, CO 80525 (mail); or *phadrea_ponds@nps.gov* (email). Please reference Information Collection 1024–0262 AKHARVEST in the subject line.

FOR FURTHER INFORMATION CONTACT: Marcy Okada, Subsistence Coordinator; Gates of the Arctic National Park & Preserve and Yukon-Charley Rivers National Preserve, 4175 Geist Road, Fairbanks, Alaska 99709. Please reference Information Collection Request 1024–0262 AKHARVEST in the subject line. You may also access this ICR at *www.reginfo.gov.*

I. Abstract

The NPS is requesting to reinstate a previously approved collection (OMB Control Number: 1024–0262) needed to survey Alaska residents who customarily and traditionally engage in subsistence uses within a national park, preserve, or monument. In 2012, a survey was conducted in Wrangell-St. Elias National Park and Preserve (WRST) and Gates of the Arctic National Park and Preserve (GAAR) to understand the effects of subsistence harvesting. This collection intended to collect information in additional Alaskan National Parks, Preserves, and Monuments.

Under the provisions of The Alaska National Interest Lands Conservation Act (ANILCA), subsistence harvests by local rural residents are considered to be the priority consumptive use of park resources. This collection will continue to gather information on subsistence harvest patterns and the impact of rural economy from resident zone communities associated with the following parks, preserves, and monuments: 1) Aniakchak National Monument (ANIA), 2) Bering Land Bridge National Preserve (BELA), 3) Cape Krusenstern National Monument (CAKR), 4) Gates of the Arctic National Park and Preserve (GAAR), 5) Kobuk Valley National Park (KOVA), 6) Noatak National Preserve (NOAT), 7) Wrangell-St. Elias National Park and Preserve (WRST) and 8) Yukon-Charley Rivers National Preserve (YUCH).

The information from this collection will be used by the NPS, the Federal Subsistence Board, the State of Alaska, and local/regional advisory councils in making recommendations and making decisions regarding seasons and harvest limits of fish, wildlife, and plants in the region which communities have customarily and traditionally used.

II. Data

OMB Control Number: 1024–0262.
Title: Community Harvest Assessments for Alaskan National Parks, Preserves, and Monuments.
Type of Request: Reinstatement.
Affected Public: General public; individual households.
Respondent Obligation: Voluntary.
Frequency of Collection: One time.
Estimated Number of Responses: 2,414.
Estimated Annual Burden Hours: 1,353 hours.
Estimated Annual Reporting and Recordkeeping ''Non-Hour Cost'': None.

III. Request for Comments

On August 18, 2015, we published a **Federal Register** notice (80 FR 50026)

announcing that we would submit this ICR to OMB for approval. Public comments were solicited for 60 days ending October 19, 2015. We did not receive any comments in response to that notice.

We again 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.

A Federal 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. Comments that you submit in response to this notice are a matter of public record. 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 OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Madonna L. Baucum,

Information Collection Clearance Officer, National Park Service.

[FR Doc. 2016–18727 Filed 8–5–16; 8:45 am]

BILLING CODE 4310–EH–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–PCE–COR–21667; PPWOPCADT0, PPMPSPD1T.Y00000 (166)]

Proposed Information Collection; National Park Service National Recreation Trails and National Water Trails System Applications

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. To comply with the Paperwork Reduction Act of 1995 and as a part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to comment on this IC. We may not conduct or sponsor and a person is not required to respond to a collection unless it displays a currently valid OMB control number.

DATES: Please submit your comment on or before October 7, 2016.

ADDRESSES: Please send your comments on the ICR to Madonna L. Baucum, Information Collection Clearance Officer, National Park Service, 12201 Sunrise Valley Drive, Mail Stop 242, Reston, VA 20192 (mail); or *madonna_baucum@nps.gov* (email). Please reference ''1024-New NRT NWTS'' in the subject line.

FOR FURTHER INFORMATION CONTACT: For National Recreation Trails, contact Helen Scully, National Trails System Program Specialist/National Recreation Trails Coordinator for the Department of the Interior; 1849 C Street NW., Org Code 2220, Washington, DC 20240; *helen_scully@nps.gov* (email); (202) 354–6910 (phone); or (202) 371–5179 (fax). For National Water Trails, contact Corita Waters, NPS Rivers, Trails, and Conservation Assistance Program; 1849 C Street NW., Org Code 2220, Washington, DC 20240; *corita_waters@nps.gov* (email); (202) 354–6908 (phone); or (202) 371–5179 (fax).

SUPPLEMENTARY INFORMATION:

I. Abstract

The purpose of this information collection is to assist the NPS in submitting suitable trails or trail systems to the Secretary of the Interior for designation as National Recreation Trails (NRTs), and in recommending exemplary water trails to the Secretary of the Interior for designation as National Water Trails (NWTs) to be included in the National Water Trails System (NWTS). The information collected will be used by the NPS, U.S. Fish and Wildlife Service, U.S. Bureau of Land Management, U.S. Bureau of Reclamation, and U.S. Army Corps of Engineers to evaluate the applications for adherence to NRT requirements and criteria and for NWTs, to determine if additional best management practices have been met.

The NPS administers the NRT program by authority of section 4 of the National Trails System Act (16 U.S.C. 1243). Secretarial Order No. 3319 established National Water Trails as a class of National Recreation Trails and directed that such trails collectively be considered in a National Water Trail System.

Designation as a NRT provides national recognition to local and regional trails or trail systems, acknowledging local and state efforts to build and maintain viable trails and trail systems. This recognition function is shared by the Secretary of Agriculture (for trails on National Forest lands and waters) and the Secretary of the Interior (for all other trails). The Secretary of the Interior has delegated NRT coordination to the NPS, which also maintains the system of record for the almost 1,300 NRTs and the 21 NWTs designated to date.

The NWTS focuses on building a national network of exceptional water trails sustainable by an ever growing and vibrant water trail community. The NWTS connects Americans to the nation's waterways and strengthens the conservation and restoration of those waterways. Best management practices provide high quality water-based outdoor recreational opportunities.

II. Data

OMB Control Number: 1024–New.

Title: National Park Service National Recreation Trails and National Water Trails System Application Process.

Form(s): Form 10–1002 Application for Designation as National Water Trail System and Form 10–1003 Application for Designation as National Recreation Trail.

Type of Request: Existing collection in use without approval.

Description of Respondents: Private individuals; businesses; educational institutions; nonprofit organizations; state, tribal, and local governments; and Federal agency land units.

Respondent's Obligation: Required to obtain or retain benefits.

Frequency of Collection: On occasion.

Activity	Estimated total annual responses	Estimated average completion time (hours)	Estimated total annual burden hours
Form 10–1002, NRT Application	13	8	104
Form 10–1003, NWTS Application	5	11	55

Activity	Estimated total annual responses	Estimated average completion time (hours)	Estimated total annual burden hours
Totals	18		159

Estimated Annual Reporting and Recordkeeping ''Non-Hour Cost'': None.

III. Comments

We invite comments concerning this IC 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.

Please note that the comments submitted in response to this notice are a matter of public record. 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: August 2, 2016.

Madonna L. Baucum,

Information Collection Clearance Officer, National Park Service.

[FR Doc. 2016–18741 Filed 8–5–16; 8:45 am]

BILLING CODE 4310–EH–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–308–310 and 520–521 (Fourth Review)]

Carbon Steel Butt-Weld Pipe Fittings From Brazil, China, Japan, Taiwan, and Thailand; Determinations

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that revocation of the antidumping duty orders on carbon steel butt-weld pipe fittings from Brazil, China, Japan, Taiwan, and Thailand would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[2]

Background

The Commission, pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)), instituted these reviews on March 1, 2016 (81 FR 10656) and determined on June 6, 2016 that it would conduct expedited reviews (81 FR 40923, June 23, 2016).

The Commission made these determinations pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determinations in these reviews on August 3, 2016. The views of the Commission are contained in USITC Publication 4628 (August 2016), entitled *Carbon Steel Butt-Weld Pipe Fittings from Brazil, China, Japan, Taiwan, and Thailand: Investigation Nos. 731 TA 308–310 and 520–521 (Fourth Review).*

By order of the Commission.

Issued: August 3, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–18742 Filed 8–5–16; 8:45 am]

BILLING CODE 7020–02–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory; Committee on Rules of Criminal Procedure

AGENCY: Advisory Committee on Rules of Criminal Procedure, Judicial Conference of the United States.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Criminal Procedure will hold a meeting on September 19, 2016, which will continue the morning of September 20, 2016, if necessary. The meeting will be open to public observation but not participation.

DATES: September 19–20, 2016.

TIME: 9:00 a.m.–5:00 p.m.

ADDRESSES: Castles Arena, Alexander Blewett III School of Law, University of Montana, 32 Campus Drive, Missoula, Montana 59812

FOR FURTHER INFORMATION CONTACT: Rebecca A. Womeldorf, Rules Committee Secretary, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: August 3, 2016.

Rebecca A. Womeldorf,

Rules Committee Secretary.

[FR Doc. 2016–18762 Filed 8–5–16; 8:45 am]

BILLING CODE 2210–55–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA'')

On August 1, 2016, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of Utah, Central Division, in a lawsuit entitled *United States* v. *Silver Reef Properties, LLC,* Case No. 2:13CV00280DB.

On April 19, 2013 the United States filed an action under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9607(a) (''CERCLA'') seeking reimbursement of response costs incurred or to be incurred for response actions taken at or in connection with the release or threatened release of hazardous substances at the 5M Staging Area Superfund Site (''Site''), located approximately one mile northwest of Leeds, Utah in Section 1, Township 41 South, Range 14 West of the Salt Lake Meridian in the Silver Reef Mining District, located within the larger patented Jumbo Lodge mining claim. The Complaint also alleged claims under CERCLA Sections 106(b)(1) and 107(c)(3) for penalties and punitive damages for failure to comply with a Unilateral Administrative Order at the Site. Under the proposed Consent Decree, Silver Reef Properties, LLC (''Defendant'') is required to (1) sell all

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Commissioner Meredith M. Broadbent determines revocation of the antidumping duty order on carbon steel butt-weld pipe fittings from Brazil is not likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

remaining real property assets with 90% of the sale proceeds to be paid towards the United States' unreimbursed Site response costs up to a judgment amount of $477,547.43, and (2) record an environmental covenant protecting the remedy at the Site. The proposed Consent Decree will resolve all CERCLA claims alleged in this action by the United States against Defendant. Defendant has an inability to pay the United States' full demand.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Environmental Enforcement Section, and should refer to *United States* v. *Silver Reef Properties, LLC,* D.J. Ref. No. 90–11–3–10255. 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 e-mail	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, D.C. 20044–7611

During the public comment period, the proposed 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 proposed 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 $15 (25 cents per page reproduction cost) for the proposed Consent Decree payable to the United States Treasury. For a paper copy without the appendices, the cost is $7.50.

Jeffrey K. Sands,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2016–18712 Filed 8–5–16; 8:45 am]

BILLING CODE 4410–15–P

LEGAL SERVICES CORPORATION

Final Agricultural Worker Population Estimates for Basic Field—Agricultural Worker/Migrant Grants

AGENCY: Legal Services Corporation.

ACTION: Notice.

SUMMARY: The Legal Services Corporation (LSC) announces implementation of new population estimates of agricultural workers that LSC will use for distribution of funds among grants for providing civil legal services to those workers and their dependents (Agricultural Worker Grants, formerly referred to as Migrant Grants). LSC will phase in application of these updated estimates over two years. For all Agricultural Worker Grant service areas, one half of the transition will occur in 2017 and the full changes will occur in 2018. This action takes into consideration public comments received as a result of three notices for public comment LSC published in the **Federal Register**. 80 FR 5791 (February 3, 2015); 81 FR 6295 (February 5, 2016); and 81 FR 19245 (April 4, 2016). LSC will also obtain updated population estimates of agricultural workers every three years for recalculation on the same statutory cycle as LSC obtains updated poverty-population data from the U.S. Census Bureau for the distribution of LSC's Basic Field Programs appropriation. Future changes in Agricultural Worker Grants based on updated population estimates will be implemented in a single year and not phased in, consistent with how LSC implements changes in the distribution of Basic Field grants. This notice summarizes LSC's development of the final estimates and discusses the revisions LSC made in response to public comment.

DATES: Effective September 7, 2016.

FOR FURTHER INFORMATION CONTACT: Mark Freedman, Senior Associate General Counsel, Legal Services Corporation, 3333 K St. NW., Washington, DC 20007; 202–295–1623 (phone); 202–337–6519 (fax); *mfreedman@lsc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

This notice completes the Legal Services Corporation's (LSC) process of revising the estimates of LSC-eligible agricultural workers for distribution of funds through Basic Field—Agricultural Worker Grants (Agricultural Worker Grants, formerly referred to as Migrant Grants). LSC provided a detailed background and discussion of the need for updating these estimates in the notice for public comment published in the **Federal Register** on February 3, 2015. 80 FR 5791. LSC has posted at *www.lsc.gov/ag-worker-data* all notices, comments received, and materials relating to this process.

Briefly summarized, LSC will revise these population estimates for three reasons. First, the estimates currently used are based on outdated information from the late 1980s and early 1990s. Second, the estimates currently used do not include the entire population of agricultural workers that LSC expects grantees to serve with Agricultural Worker Grants, which includes both migrant and non-migrant agricultural workers (this also explains the change in the name of these grants from Migrant Grants to Agricultural Worker Grants). Third, the current estimates do not take into account the portion of the population that is not eligible for LSC-funded legal services.

LSC contracted with the Department of Labor's Employment and Training Administration (ETA) to obtain updated estimates of the size and distribution of the population of agricultural workers and their dependents eligible for LSC-funded services. ETA subcontracted with JBS International, Inc. (JBS or ETA contractor) to use Department of Labor and other government data to develop these estimates. In January 2015, ETA provided LSC with JBS's initial estimates (including state-by-state breakdowns) which ETA determined were technically sound. *See* Memorandum from the U.S. Department of Labor Employment and Training Administration (January 21, 2015) transmitting the JBS memorandum ''Estimating the National Size and State Distribution of the LSC-Eligible Population'' (January 19, 2015) at *www.lsc.gov/ag-worker-data* (February 2015 Notice—Initial Estimates, LSC Management Report Appendices, Appendix A).

On February 3, 2015, LSC published a notice in the **Federal Register** seeking comments on LSC's proposal to implement the January 2015 methodology and resulting estimates provided by ETA. 80 FR 5791. *See* ''LSC Management Report—LSC Agricultural Worker Population Estimate Update'' (January 30, 2015) at *www.lsc.gov/ag-worker-data* (February 2015 Notice—Initial Estimates, LSC Management Report). In response to this notice, LSC received eleven comments, which LSC has published at *www.lsc.gov/ag-worker-data.* Based on those comments, LSC obtained revised estimates from ETA, which LSC published on its Web site and through the **Federal Register** for further public comment along with LSC's response to the first eleven comments on February 5, 2016. 81 FR 6295 and *www.lsc.gov/ag-worker-data* (February 2016 Notice—Revised Estimates). In support of the notice, LSC provided a comprehensive table

detailing specific data sources and revised calculations. *See* ''Table I—Updated Estimates of the Size and Geographic Distribution of The LSC-Eligible Agricultural Worker Population and the Sources and Calculations Used to Develop Those Estimates'' (January 20, 2016) at *www.lsc.gov/ag-worker-data* (February 2016 Notice—Revised Estimates, Tables I–VII). In response to the second notice LSC received three comments that are discussed in detail below.

On April 4, 2016, LSC published on its Web site and in the **Federal Register** a notice for comment on a proposal from the Michigan Advocacy Program (MAP) to use certain Michigan-specific estimates. 81 FR 19245 *and www.lsc.gov/ag-worker-data (April 2016 Notice—Revisions to the Michigan Estimate).* LSC received one comment from MAP itself in response to this notice. MAP's comment included 2015 administrative data to support its view that LSC should adjust certain assumptions underlying the estimates of dependents eligible for LSC-funded services. LSC asked ETA to review the three comments filed in response to the second notice and MAP's additional comment to identify which, if any, of the commenters' recommendations would improve the accuracy of the estimates of the LSC-eligible agricultural worker population and, as appropriate, provide revised estimates of the LSC-eligible agricultural worker population. ETA subcontracted with JBS to perform this work. ETA transmitted to LSC the JBS analysis, which ETA found technically sound. *See* Memorandum from the U.S. Department of Labor Employment and Training Administration (July 26, 2016) transmitting the JBS memorandum ''Assessment of Technical Comments Concerning the Methodology for Estimating the Number and Geographic Distribution of Agricultural Workers Who are Eligible for Services Provided by the Legal Services Corporation (LSC), for ETA Review'' (July 6, 2016) at *www.lsc.gov/ag-worker-data* (August 2016 Notice—Final Estimates, Appendix A) (hereafter ''July 2016 ETA and JBS Memorandum'').

II. Summary of Comments and Key Changes to LSC'S Estimates

In the second notice, 81 FR 6295 (February 5, 2016), LSC identified three areas for additional public comment: (1) ETA's methodology and data after further analysis of the data was conducted; (2) newly proposed estimates of aliens within the agricultural worker population who are eligible under 45 CFR § 1624.4 for services from LSC grantees based on sexual abuse, domestic violence, trafficking, or other abusive or criminal activities; and (3) proposals of available and reliable state- or region-specific data for augmenting the ETA data in individual states. With this notice, LSC published a memorandum explaining LSC's proposed methodology and estimates of the agricultural worker population eligible under 45 CFR § 1626.4. *See* ''Estimate of the Population of Agricultural Workers Eligible for LSC Funded Services Pursuant to 45 CFR § 1626.4—Anti-Abuse Laws'' (January 20, 2016) available at *www.lsc.gov/ag-worker-data* (February 2016 Notice—Revised Estimates, Appendix A).

LSC received one comment from the National Legal Aid and Defender Association (NLADA) Agricultural Worker Project Group. LSC also received comments from two grantees: Michigan Advocacy Program (MAP) and Puerto Rico Legal Services. Both comments are published at *www.lsc.gov/ag-worker-data.*

The comments expressed continued support for LSC's efforts to update the estimates of agricultural workers in the United States who are eligible for LSC services. The comments also supported (with the exception discussed in Section E below) LSC's proposed methodology and resulting estimates of aliens within the agricultural worker population eligible for services from LSC grantees based on sexual abuse, domestic violence, trafficking, or other abusive or criminal activities under 45 CFR § 1626.4.

Generally, the concerns raised by the commenters fell into six categories. As discussed in detail below, LSC has revised its final estimates to incorporate all but two of the changes proposed in the comments.

A. Concerns Regarding the ETA Estimates of Eligible Farmworker Dependents

NLADA and Michigan Advocacy Program asserted that the ETA estimates of farmworker dependents for LSC-funded services (based on ETA's ''country of birth'' method) were too low because they were based on what NLADA and MAP believed were two erroneous assumptions: (1) That foreign-born adult children (18 or older) would be ''authorized' (that is, meet the eligibility requirements of Part 1626) only if they had at least one parent or spouse born in the U.S., and (2) that spouses and other farmworker relatives in farmworker households would be authorized only if they themselves are U.S.-born.

Both commenters urged LSC to revise its estimates of dependents eligible for LSC-funded services by directing ETA to change these assumptions and include in the estimate of ''authorized'' dependents (1) all adult children of farmworkers whom the National Agricultural Workers Survey (NAWS) has identified as ''authorized,'' not just those children born in the U.S., and (2) all spouses of farmworkers whom the NAWS has identified as ''authorized,'' not just those spouses who are born in the U.S.

After reviewing these comments, ETA determined that a revision of the estimation methodology could provide a more accurate estimate of the number of authorized dependents. *See* ''July 2016 ETA and JBS Memorandum.'' Table V, which LSC is publishing on its Web site, shows the impact this revision has on the population estimates. *See* ''Table V—Number of LSC-Eligible Agricultural Worker Dependents by State: Comparison of February 2016 and Final Estimates'' at *www.lsc.gov/ag-worker-data* (August 2016 Notice—Final Estimates, Tables I–VI).

B. Concerns Regarding the Estimates of the Number of Agricultural Workers With Pending I–130 Petitions; Political Asylum Seekers; Refugees; or Individuals Granted Withholding of Deportation, Exclusion or Removal

NLADA expressed concern that LSC's estimates undercounted the number of agricultural workers or dependents who are authorized because (1) they have pending I–130 petitions and a requisite relationship with a U.S. citizen child, spouse, or parent or (2) are political asylum seekers; refugees; or individuals granted withholding of deportation, exclusion or removal. The comments asserted that the NAWS survey does not adequately capture the relevant data because an interviewer, when asking about an individual's immigration status, is only required to list specific immigration statuses (such as a pending I–130 petition) if ''necessary.'' The comments stated that many agricultural workers, in response to survey questions, correctly state that they are ''unauthorized'' but are not asked a follow-up question whether they have a pending I–130 petition or are in situations that may otherwise qualify them for LSC-funded services under 45 CFR part 1626 (LSC regulation providing categories of aliens eligible for legal assistance under anti-abuse laws and based on immigration status).

NLADA requested that LSC develop revised estimates based on data from governmental sources (*e.g.,* U.S. Citizenship and Immigration Services or

the State Department) and other ''reputable studies.'' NLADA maintained that these data sources ''should make it possible to estimate, at least on a national basis, the number'' of farmworkers who would be eligible for LSC-funded services because they have pending I–130 petitions. NLADA asserted that ''the same analysis applies to those who are LSC-eligible because they are asylum seekers, refugees and granted withholding of deportation and are LSC-eligible but who might not be identified through the NAWS survey.''

LSC requested that ETA review these comments. After reviewing these comments, ETA determined that the NAWS would capture necessary information about respondents who might be LSC-eligible because they are political asylum seekers, refugees, or have temporary protective status. Therefore, no adjustment in the estimation formula was needed to improve the accuracy of the estimates of these individuals.

ETA acknowledged that some respondents with pending I–130s, however, may not have been correctly identified, as the NAWS questionnaire does not include a question that directly asks if the respondent has a pending I–130 and, as a result, the methodology in the estimates published on February 5, 2016, could underestimate the number of these individuals who might be LSC-eligible. Accordingly, the estimation methodology was revised to improve the accuracy of this estimate. *See* ''July 2016 ETA and JBS Memorandum.'' LSC is publishing on its Web site Table IV, which identifies the effects this change has on the population estimates. *See* ''Table IV—Number of LSC-Eligible Agricultural Workers by State: Comparison of February 2016 and Final Estimates'' at *www.lsc.gov/ag-worker-data* (August 2016 Notice—Final Estimates, Tables I–VI).

C. Requests To Use the Most Recent Data on the Number of H–2A and H–2B Workers

Michigan Advocacy Program and NLADA requested that LSC revise its estimates to reflect more current data regarding the population of H–2A agricultural workers and H–2B forestry workers. The comments urged LSC to incorporate Department of Labor data on the number of H–2A and H–2B positions certified nationwide in FY 2015 because these data demonstrate a substantial increase in the number of H–2A workers since 2012.

The estimates of the number and geographic distribution of agricultural workers eligible for LSC-funded services are based on a variety of 2012 data sources. Although there are more recent data for H–2A agricultural workers and H–2B forestry workers, more recent data are not available from the Census of Agriculture, which provided substantial data in the estimation methodology. JBS's recommendation, which ETA has endorsed, is to use 2012 data for H–2A agricultural workers and H–2B forestry workers for consistency with the 2012 data from the other information sources used in the estimation formula. *See* ''July 2016 ETA and JBS Memorandum.''

D. Requests for LSC To Reconsider the Use of Data and Resulting Estimates Reported by the NAWS Twelve-Region Sampling Groups

NAWS data are reported for twelve-region sampling strata and six-region analysis groupings; the six region data have lower relative standard errors (RSEs) than the twelve region data. Both NLADA and Michigan Advocacy Program expressed concern with ETA's use of NAWS twelve-region sampling group data to estimate the state-level populations of agricultural workers, because reliance on NAWS twelve-region data produced less reliable estimates than would six-region data and resulted in characterizations of state farmworker populations in some states, which were inconsistent with the commenters' first-hand knowledge about the state-level demographics and status of farmworkers and their dependents. To reduce the likelihood of these anomalies, the commenters urged LSC to revise its estimates of LSC-eligible agricultural workers by using the NAWS six-region data instead of the NAWS twelve-region data.

LSC asked ETA to consider these comments. ETA endorsed JBS's analysis that the use of the NAWS six-region data would result in more robust estimates because the RSEs of the estimates are lower at the six-region level than they are at twelve-region level. *See* ''July 2016 ETA and JBS Memorandum.'' Accordingly, ETA provided and LSC will use revised estimates based on NAWS six-region data.

E. Concerns Over the Calculation of the Population Eligible Pursuant to Anti-Abuse Provisions of 45 CFR 1626.4

The comments from NLADA and Michigan Advocacy Program stated that LSC's estimates of the population of people who are eligible pursuant to the anti-abuse provisions of 45 CFR 1626.4 were based on an incorrect poverty level standard. ETA agrees with these comments and has revised the estimates using the correct poverty level standard. LSC's final estimates reflect this correction. Table VI identifies the effects this change has on the population estimates. *See* ''Table VI—Number of Unauthorized and Below-Poverty Farmworkers Eligible for LSC-Funded Services Pursuant to Anti-Abuse Provisions of 45 CFR 1626.4 by State: Comparison of February 2016 and Final Estimates'' at *www.lsc.gov/ag-worker-data* (August 2016 Notice—Final Estimates, Tables I–VI).

F. Proposals To Use Alternate Methodologies and Data Sources To Estimate Individual State Agricultural Worker Populations

In response to the February 5, 2016 public notice, LSC received one proposal to use alternate methodologies and data sources to estimate agricultural worker populations for individual states: Michigan Advocacy Program proposed alternative methods, data sources and estimates of the agricultural worker population in Michigan. In response to the April 4, 2016 public notice, MAP provided additional information to support its proposed alternative methods and estimates. LSC asked ETA to analyze the methods, data sources and population estimates MAP proposed. ETA endorsed JBS's assessment that MAP's proposed methodology and data do not produce estimates that are more accurate than the published estimates because the majority of those data sources ''do not have eligibility guidelines concerning household poverty and alien status that are consistent with the LSC criteria.'' These agencies were Migrant Health Centers that can provide. *See* ''July 2016 ETA and JBS Memorandum'' (JBS's Response to Recommendation 6). Therefore, LSC declines to adopt the alternate estimates provided by the Michigan Advocacy Program. Some of MAP's proposals were, in effect, accepted as a result of the changes in the ETA methodology discussed above in sections A and B.

Puerto Rico Legal Services also submitted additional data and comments regarding the agricultural worker population in Puerto Rico. In its comment, Puerto Rico Legal Services explained the inherent difficulty in calculating this population. LSC commends Puerto Rico Legal Services for working with local government agencies to seek to obtain actual and realistic data concerning the number of local and migrant workers on the island. However, because these data have not yet been developed, LSC will not revise its estimates of the agricultural worker population in Puerto Rico.

III. Conclusion

As discussed herein, LSC will implement these final estimates for Basic Field—Agricultural Worker grants by distributing funding among all of the existing Agricultural Worker grant service areas for 2017 grants at a 50% implementation level (compared with the 2016 distribution) and then for 2018 and successive years at a 100% implementation level. LSC will also obtain updated population estimates of agricultural workers every three years for recalculation on the same statutory cycle as LSC obtains updated poverty-population data from the U.S. Census Bureau for the distribution of LSC's Basic Field Programs appropriation. LSC is publishing on its Web site the following revised tables showing the final estimates and their effects on Basic Field-Agricultural Worker grants (presuming for comparison constant total LSC funding for Basic Field Program grants during the relevant grant years). *See www.lsc.gov/ag-worker-data* (August 2016 Notice—Final Estimates, Tables I–VI). Descriptions of these tables are included below.

Table I

Final National and State Estimates of the LSC-Eligible Agricultural Worker Population—Summary Table: This table provides summary information about the major data sources and calculations used to derive the updated estimates.

Table II

LSC-Eligible Agricultural Worker Population by State: Comparison of Current (Fiscal Year 2016) Population Estimates and Final Estimates. The data in this table show the differences between the final estimates of the agricultural worker population and the population estimates on which Fiscal Year 2016 grant allocations were based.

Table III

LSC-Eligible Agricultural Worker Population by State: Comparison of February 2016 Estimates and Final Estimates. The data in this table show the differences between the final estimates of the total LSC-eligible agricultural worker population and the estimates published in February 2016.

Table IV

Number of LSC-Eligible Agricultural Workers by State: Comparison of February 2016 and Final Estimates. The data in this table show the differences between the final estimates number of the number LSC-eligible agricultural workers and the estimates published in February 2016.

Table V

Number of LSC-Eligible Agricultural Worker Dependents by State: Comparison of February 2016 and Final Estimates. The data in this table show the differences between the final estimates of the number of agricultural worker dependents and the estimates published in February 2016.

Table VI

Number of Unauthorized and Below-Poverty Farmworkers Eligible for LSC-Funded Services Pursuant to Anti-Abuse Provisions of 45 CFR 1626.4 by State: Comparison of February 2016 and Final Estimates. The data in this table show the differences between the final estimates and the estimates published in February 2016 of the number of unauthorized and below-poverty farmworkers eligible for LSC-funded services pursuant to anti-abuse provisions of 45 CFR 1626.4.

Dated: August 3, 2016

Mark Freedman,

Senior Associate General Counsel.

[FR Doc. 2016–18753 Filed 8–5–16; 8:45 am]

BILLING CODE 7050–01–P

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 16–02]

Notice of Entering Into a Compact With the Republic of Niger

AGENCY: Millennium Challenge Corporation.

ACTION: Notice.

SUMMARY: In accordance with Section 610(b)(2) of the Millennium Challenge Act of 2003 (22 U.S.C. 7701–7718) as amended (the Act), and the heading ''Millennium Challenge Corporation'' of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2015, the Millennium Challenge Corporation (MCC) is publishing a summary of the Millennium Challenge Compact between the United States of America, acting through the Millennium Challenge Corporation, and the Republic of Niger. Representatives of the United States Government and Niger executed the Compact documents on July 29, 2016. The complete text of the Compact has been posted at *https://assets.mcc.gov/documents/niger-compact-signed.pdf.*

Dated: August 3, 2016.

Sarah Fandell,

Vice President and General Counsel, Millennium Challenge Corporation.

Summary of Millennium Challenge Compact With the Republic of Niger

Overview

Niger, one of the poorest and least developed countries in the world, has consistently ranked last on the United Nations Human Development Index for the past 25 years. This land-locked West African country is almost twice the size of Texas, and two-thirds of the country's land mass is the Sahara Desert, making it one of the hottest and driest countries in the world. Niger has made notable improvements over the past few years, but over 40 percent of the population still lives below the global poverty line of $1.25 per day. Despite these challenges, the Nigeriens have demonstrated a strong commitment to governance reforms, economic growth, and investing in their people. The MCC Board of Directors (the ''Board'') selected Niger as eligible to develop a Millennium Challenge Compact in December 2012. Niger has consistently passed the MCC scorecard after doing so for the first time in 2012.

Roughly 80 percent of Niger's population lives in rural areas and relies on agriculture for its livelihood. Moreover, over 90 percent of the population relies on a single, three-month, highly capricious rainy season to support agriculture and livestock production. Frequent droughts and floods decimate crops and productive assets, undermining the population's ability to build its resilience and economic security. In addition, sustainable natural resource management is lacking in this fragile environment, and water and pasture resources are frequently over-utilized, causing severe erosion of once productive areas. Agricultural productivity has stagnated due to a lack of access to critical productive inputs such as improved seed, fertilizer, irrigation, and technical assistance.

Water resource management, community-based livestock and climate-resilient agriculture systems are critical to ensure adaptability, improve agricultural productivity, and sustain water and land resources in Niger. The Compact will seek to raise rural incomes by increasing agricultural and livestock production by boosting production through increases in areas under cultivation and improvements in yields. Through the Compact, MCC will finance critical access to water for crop and livestock productivity, market

platforms, and transport infrastructure, while also building the technical capacity necessary to realize projected benefits and to sustainably utilize and maintain the infrastructure and natural resource investments.

The budget for the Compact is $437,024,000, allocated as follows:

COMPACT BUDGET SUMMARY

Component	Total (in US$)
1. Irrigation and Market Access Project:	
1.1 Irrigation Perimeter Development	113,250,000
1.2 Management Services and Market Facilitation	9,142,000
1.3 Roads for Market Access	113,422,000
1.4 Policy Reform	18,750,000
Subtotal	254,564,000
2. Climate-Resilient Communities Project:	
2.1 Regional Sahel Pastoralism Support	45,000,000
2.2 Climate-Resilient Agriculture	51,500,000
Subtotal	96,500,000
3. Monitoring and Evaluation:	
3.1 Monitoring and Evaluation	12,000,000
Subtotal	12,000,000
4. Program Administration and Oversight:	
4.1 MCA-Niger Administration, Program Management Support, Fiscal Agent, Procurement Agent and Financial Audits	73,960,000
Subtotal	73,960,000
Total Program Budget	437,024,000

Irrigation and Market Access Project ($254.6 Million)

The Irrigation and Market Access Project (''Irrigation Project'') aims to increase rural incomes through improvements in agricultural productivity and sales resulting from modernized irrigated agriculture and flood management systems with sufficient trade and market access. The project will focus its interventions in the Dosso and Tahoua regions. Specifically, the Irrigation Project will support the following activities:

1. Irrigation Perimeter Development Activity. This activity is designed to rehabilitate the Konni irrigation system and develop new irrigated perimeters in the Dosso-Gaya area. The Konni rehabilitation will restore and secure reliable production capacity on approximately 6,060 acres (2,452 hectares) of an existing large-scale irrigation infrastructure. New perimeters will be developed in Ouna-Kouanza and Sia. The rehabilitation component represents improvement on 19 percent of existing irrigation infrastructure in the country. The new perimeters will increase the area under irrigation in Niger by 20 percent.

2. Management Services and Market Facilitation Activity. This activity complements the Irrigation Perimeter Development Activity by increasing the productive assets for beneficiaries of the Irrigation Perimeter Development Activity through the following:

i. Establishing and implementing a framework for land allocation, based on, among other things, (i) development of local land tenure profiles, (ii) participatory development of core local land allocation standards and of a transparent process for undertaking the land allocation, and (iii) completing the land allocation and formalizing land property rights, and building capacity for local land governance to address land conflict management and integrated local land use planning;

ii. Establishing and empowering single-purpose, self-governing, self-financing nonprofit irrigation water user associations (IWUAs) to undertake irrigation management functions in the project intervention areas, including preparatory studies, technical support and capacity building for the newly formed IWUAs; and

iii. Strengthening the capacity of beneficiaries through new or existing savings groups and existing producer and women's and youth groups to (i) grow commodities according to market demand and pricing signals, (ii) participate in savings groups to improve business skills and save capital to operationalize their cropping calendars, (iii) increase use of appropriate fertilizers and improved seeds, (iv) monitor and adapt to changing conditions in the environment, (v) participate in producer organizations to improve their negotiation position at the farm gate and in the marketplace, (vi) invest in infrastructure to store and add value to their production, and (vii) increase sales of commodities and processed products.

3. Roads for Market Access Activity. MCC funding is intended to support improvements to physical market access through targeted road network improvements serving the Dosso-Gaya perimeters and linking irrigation beneficiaries to important consumer markets and regional trade hubs. This activity will support the rehabilitation and gravel upgrade of approximately 116 miles (187 kilometers (km)) of the RN35 road directly serving the Dosso-Gaya perimeters; rehabilitation, upgrade and paving of approximately 51 miles (83 km) of the RN7, the main north-south international trunk road linking the southern region of Niger to the rest of the country; and rehabilitation and gravel upgrade of approximately 23 miles (37 km) of the Sambera rural road that links the Ouna-Kouanza and Sia irrigation perimeters with the RN7.

4. Policy Reform Activity. This activity aims to promote several major policy reforms directly linked to the success and sustainability of the Compact through support (i) to develop and build the capacity of the Ministry of Hydraulics and Sanitation and other relevant government entities to implement a new master plan to manage national water resources, (ii) to develop and implement natural resource and community land use management plans

for the protected areas and nearby communities affected by the Irrigation Project in the Dosso Region, (iii) to reform the Ministry of Agriculture and Livestock's fertilizer distribution system to allow greater competition and private sector participation to improve availability and affordability of fertilizers, especially to small farmers, and (iv) to develop the statistical capacities of the National Institute of Statistics and development of the Government of Niger's monitoring and evaluation capacities.

Climate-Resilient Communities Project ($96.5 Million)

The Climate-Resilient Communities Project (''CRC Project'') aims to increase incomes for small-scale agriculture-dependent and livestock-dependent families in eligible municipalities in rural Niger by improving crop and livestock productivity, sustaining natural resources critical to long-term productivity, and increasing market sales of targeted commodities. The project will be implemented in partnership with the World Bank through existing project implementation units (''PIUs'') located in the Ministry of Agriculture and Livestock. MCC funding will not be combined with World Bank funds, though the PIUs will oversee both MCC and World Bank-funded activities. The PIUs will use jointly agreed upon operation manuals that will incorporate investment criteria, legal, fiscal, procurement, environmental, social, gender and monitoring and evaluation requirements that comply with MCC standards. To ensure adequate oversight, the accountable entity for the Compact, the Millennium Challenge Account—Niger (''MCA-Niger''), will embed staff within these PIUs. Regions of intervention for this project are Tillaberi, Dosso, Tahoua and Maradi.

1. Regional Sahel Pastoralism Support Activity (''PRAPS Activity''). The PRAPS Activity aims to improve livestock value and sales by conducting a livestock health and vaccination campaign; identifying and undertaking critical upgrades in major transhumance livestock corridors, including water points and pasture improvements; and modernizing local market infrastructure and organization.

2. Climate-Resilient Agriculture Activity (''CRA Activity''). The CRA Activity aims to support the development and implementation of municipality-level investment plans to increase the use of agricultural practices that minimize climate risks, improve the utilization rate of fertilizer and improved/drought-tolerant seeds, increase access to small-scale irrigation, promote land reclamation, protect watersheds from erosion, and establish market platforms to competitively position farmer groups in the marketplace. MCC funds will focus on climate-resilient investment needs, especially small-scale irrigation, in 16 municipalities in four regions.

The activity will include a grant facility that will competitively award grants to women's and youth groups, cooperative and producers' groups, and micro-, small-, and medium-sized enterprises. The portfolio of grants managed by the grant facility must meet MCC's economic rate of return (''ERR'') hurdle rate. Similarly, the municipality-level investment plans will be developed in the first year of Compact implementation, and must also meet MCC's ERR hurdle rate in order to be funded.

Economic Analysis

The Compact will aim to address Niger's two major constraints to economic growth through a combination of policy reforms, infrastructure investments, access to training, finance and management services, facilitation of partnerships, and improvements to agricultural and livestock production and market platforms. These activities will enable farming, fishing and pastoral households in the intervention areas to increase their agricultural and livestock production and in turn, raise their incomes.

An ERR was calculated for each of the Compact's projects. The ERR for the Irrigation Project is estimated at 17 percent. The CRC Project consists of activities to be developed in consultation with local communities and of activities funded through a competitive grant facility. This project (not including the $12.5 million matching grant facility subactivity) has an estimated ERR of 14 percent. Because the nature of specific grant proposals cannot be known until they are submitted for review, ERRs will be calculated during grant selection.

On a limited basis, small-scale grants without a full ERR may be awarded if determining a full ERR is deemed to be cost prohibitive. In those cases, each proposal will still undergo a consideration of costs versus benefits to verify its viability. Economists can, for instance, determine the likelihood of a satisfactory rate of return based on looking at similar project profiles. The grant portfolio will have an ERR above MCC's hurdle rate of 10 percent.

The Compact is expected to reach 489,359 households totaling more than 3.9 million beneficiaries over a twenty-year period.

[FR Doc. 2016–18756 Filed 8–5–16; 8:45 am]

BILLING CODE 9211–03–P

NATIONAL CREDIT UNION ADMINISTRATION

Written Reimbursement Policy

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). The purpose of this notice is to allow for 60 days of public comment.

Each FCU must draft a written reimbursement policy to ensure that the FCU makes payments to its director within the guidelines that the FCU has established in advance and to enable examiners to easily verify compliance by comparing the policy to the actual reimbursements.

DATES: Comments will be accepted until October 7, 2016.

ADDRESSES: Interested persons are invited to submit written comments on the information collection to Troy Hillier, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428; Fax No. 703–519–8595; or Email at *PRAComments@NCUA.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the address above.

SUPPLEMENTARY INFORMATION:

OMB Number: 3133–0130.

Title: Written Reimbursement Policy.

Abstract: Federal Credit Unions (''FCU'') may reimburse its board members for reasonable and proper costs incurred in conducting their official responsibilities only if the reimbursement is in accordance with the written reimbursement policies and procedures established by the FCU's board of directors. Access to this plan, and documentation related to its implementation is necessary for NCUA examiners to verify compliance with this requirement.

Type of Review: Extension of a previously approved collection.

Affected Public: Private sector: Not-for-profit institutions.

Estimated Number of Respondents: 3,768.

Frequency of Response: 1 responses per year per respondent.

Estimated Burden Hours per Response: 0.5.

Estimated Total Annual Burden Hours: 1,890 burden hours.

Request for Comments: Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit comments concerning: (a) Whether the collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and 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 the information on the respondents, including the use of automated collection techniques or other forms of information technology.

By Gerard Poliquin, Secretary of the Board, the National Credit Union Administration, on August 3, 2016.

Dated: August 3, 2016.

Troy S. Hillier,

NCUA PRA Clearance Officer.

[FR Doc. 2016–18750 Filed 8–5–16; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation

ACTION: 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, Pub. L. 104–13. This is the second notice for public comment; the first was published in the **Federal Register** at 81 FR 30348, and 50 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.*

The National Science Foundation (NSF) is announcing plans to request renewed clearance of this collection. The primary purpose of this revision is to implement changes described in the **SUPPLEMENTARY INFORMATION** section of this notice. 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 H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 1265, Arlington, Virginia 22230 or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

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.

SUPPLEMENTARY INFORMATION:

Summary of Comments on the National Science Foundation Proposal and Award Policies and Procedures Guide and NSF's Responses

The draft NSF PAPPG was made available for review by the public on the NSF Web site at *http://www.nsf.gov/bfa/dias/policy/.* In response to the **Federal Register** notice published May 16, 2016, at 81 FR 30348, NSF received 50 comments from eight different institutions/individuals; 36 comments were in response to the *Proposal and Award Policies and Procedures Guide, Part I,* and 14 were in response to the *Proposal and Award Policies and Procedures Guide, Part II.* Following is the table showing the summaries of the comments received on the PAPPG sections, with NSF's response.

No.	Comment source	Topic & PAPPG Section	Comment	NSF Response
1.	Penn State University.	Introduction, Section A.	Facilitation Awards for Scientists and Engineers with Disabilities provide funding for special assistance or equipment to enable persons with disabilities to work on NSF-supported projects. See Chapter II.E.7 for instructions regarding preparation of these types of proposals. We believe the above should reference Chapter II. E. 6.	Facilitation Awards for Scientists and Engineers with Disabilities provide funding for special assistance or equipment to enable persons with disabilities to work on NSF-supported projects. See Chapter II.E.7 for instructions regarding preparation of these types of proposals. We believe the above should reference Chapter II. E. 6.

No.	Comment source	Topic & PAPPG Section	Comment	NSF Response
2.	Penn State University.	Introduction, Section B.	Part II of the NSF Proposal & Award Policies & Procedures Guide sets forth NSF policies regarding the award, and administration, and monitoring of grants and cooperative agreements. Coverage includes the NSF award process, from issuance and administration of an NSF award through closeout. Guidance regarding other grant requirements or considerations that either is not universally applicable or which do not follow the award cycle also is provided. Part II also implements other Public Laws, Executive Orders (E.O.) and other directives insofar as they apply to grants, and is issued pursuant to the authority of Section 11(a) of the NSF Act (42 USC § 1870). When NSF Grant General Conditions or an award notice reference a particular section of the PAPPG, then that section becomes part of the award requirements through incorporation by reference. If the intent of this edit is to incorporate NSF FAQ's in the award terms and conditions, we would recommend further clarification to spell this out in greater detail.	It is not NSF's intent to incorporate NSF FAQs into the award terms and conditions. OMB has stated that their FAQs on 2 CFR § 200 have the full force and effect of the Uniform Guidance, but this has no impact on the PAPPG.
3.	Penn State University.	Letter of Intent, Chapter I.D.1.	We propose an overall change to the LOI process (for the purpose/sake of consistency), to make all LOI submission's mandatory from an AOR (not the PI).	Given the variance in the types of proposals that use the LOI mechanism, a change in this process would not be appropriate.
4.	Penn State University.	Who May Submit Proposals, Chapter I.E.1 (Universities and Colleges).	Recommend an inclusion statement to address Universities and Colleges with multi-campus locations and academic focus. ie. Main campus as PhD awarding institution, while branch campus as PUI. This clarification would be useful for program solicitations with submission limitations.	While there is a standard definition of what constitutes a college or university, the PAPPG is indeed silent on how multi-campus locations should be addressed. Various NSF program solicitations do address this issue and vary according to programmatic intent regarding how such satellite campuses should be treated. As such, a statement in the PAPPG would not be able to capture these variances. The PAPPG however does address the vast majority of the programs at NSF. For those programs that limit such eligibility, there are definitions provided in the applicable Program Solicitation.
5.	Penn State University.	When to Submit Proposals, Chapter I.F (Special Exceptions).	Include guidance that the name of the NSF Program Officer that granted the special exception to the deadline date policy. Either with a new fill in the blank box on the NSF Cover Sheet or as a Single Copy Documents in FastLane.	Thank you for your comment. The PAPPG states that if written approval is available, it should be uploaded. The email should contain the name of the cognizant Program Officer, so an additional space for this information on the Cover Sheet is not necessary. Additional guidance, however, regarding this process has been provided.
6.	Penn State University.	Format of the Proposal, Chapter II.B.	We believe references 6–10 need to be updated as follows: 9. Center Proposal (see Chapter II.E.10 and relevant funding opportunity); 10. Major Research Equipment and Facility Construction Proposal (see Chapter II.E.11 and relevant funding opportunity).	References were accurate, as stated.
7.	Penn State University.	Collaborators & Other Affiliations Information, Chapter II.C.1.e.	Please add that this section must be alphabetical order by last name. In general, it should be clarified if this list should be set up much like the templates provided by NSF (columns), or if a running list like the biosketch format is acceptable. Our hope is that one day the file upload can be an excel sheet template that lists this information and becomes sortable for NSF.	Instructions to order the list alphabetically by last name have been included. No format for the list is specified in the PAPPG, although some programs may specify a specific format in the applicable program solicitation.
8.	Penn State University.	Sections of the Proposal, Chapter II.C.2.	Please add "k. Single Copy Documents—Collaborators & Other Affiliations.".	Comment incorporated.
9.	Penn State University.	Cover Sheet, Chapter II.C.2.a.	Please add clarification that the title is limited to 180 characters, per the FastLane system.	Part I of the PAPPG provides policy and procedural guidance for preparation of proposals. Issues such as field length should be articulated in the relevant NSF system.

No.	Comment source	Topic & PAPPG Section	Comment	NSF Response
10.	Penn State University.	Project Summary, Chapter II.C.2.b.	''Each proposal must contain a summary of the proposed project not more than one page in length.'' This requirement is not just one page in length BUT 4,600 characters. Please clarify that the on-line text boxes only permit this count.	This was a known defect in FastLane that has now been addressed. The Project Summary is limited to 1 page as stated in the PAPPG.
11.	Penn State University.	Cover Sheet, Chapter II.C.2.a (Footnotes).	If the proposal includes use of vertebrate animals, supplemental information is required. See GPG Chapter II.D.7 for additional information. If the proposal includes use of human subjects, supplemental information is required. See GPG Chapter II.D.8 for additional information. We believe the above should reference Chapter II. D. 4 and Chapter II.D.5.	References were accurate, as stated.
12.	Penn State University.	References Cited, Chapter II.C.2.e.	We request clarification be added for references of large collaborative group, i.e. CREAM and ICE CUBE. There are hundreds of authors and collaborators to list. Should these be listed in their entirety or are et. al's acceptable? Should a full list be loaded into supplemental documents or single documents?	Thank you for your comment. The norms of the discipline should be followed when preparing the References Cited. Given that each discipline may have different practices, it is not appropriate to include additional instructions in this section.
13.	Penn State University.	Senior Personnel Salaries and Wages, Chapter II.C.2.g.(i)(a).	As a general policy, NSF limits the salary compensation requested in the proposal budget for senior personnel to no more than two months of their regular salary in any one year. This limit includes salary compensation received from all NSF-funded grants. This effort must be documented in accordance with 2 CFR § 200, Subpart E. If anticipated, any compensation for such personnel in excess of two months must be disclosed in the proposal budget, justified in the budget justification, and must be specifically approved by NSF in the award notice budget.12 Under normal rebudgeting authority, as described in Chapters VII and X, a recipient can internally approve an increase or decrease in person months devoted to the project after an award is made, even if doing so results in salary support for senior personnel exceeding the two month salary policy. No prior approval from NSF is necessary as long as that change would not cause the objectives or scope of the project to change. NSF prior approval is necessary if the objectives or scope of the project change. We ask that the 2 month rule described above be removed from the proposal budget requirements. Given that rebudgeting authority can allow for internal approvals of increased or decreases, we do not understand why this requirement is still part of the NSF PAPPG.	NSF concurs with the portion of the comment regarding the ability to rebudget. However, this policy relates to budgeting salary for senior personnel in both the budget preparation and award phases of the process. NSF plans to maintain its long-standing policy regarding senior personnel salaries and wages in these phases of the process, reflecting the assistance relationship between NSF and grantee institutions.

No.	Comment source	Topic & PAPPG Section	Comment	NSF Response
14.	Penn State University.	Participant Support (Line F on the Proposal Budget), Chapter II.C.2.g.(v).	This budget category refers to direct costs for items such as stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with NSF-sponsored conferences or training projects. Any additional categories of participant support costs other than those described in 2 CFR § 200.75 (such as incentives, gifts, souvenirs, t-shirts and memorabilia), must be justified in the budget justification, and such costs will be closely scrutinized by NSF. (See also GPG Chapter II.E.10D.9) For some educational projects conducted at local school districts, however, the participants being trained are employees. In such cases, the costs must be classified as participant support if payment is made through a stipend or training allowance method. The school district must have an accounting mechanism in place (i.e., sub-account code) to differentiate between regular salary and stipend payments. We believe the above should reference is pointing to the incorrect area but we're not sure what reference to suggest in its place.	Reference should be Chapter II.E.7. Comment incorporated.
15.	Penn State University.	Voluntary Committed and Uncommitted Cost Sharing, Chapter II.C.2.g.(xii).	While voluntary uncommitted costs share is not auditable by NSF, if included in the Facilities and Other Resources section of a proposal, will it be REVIEWABLE by NSF and external reviews? Our concern is that this sort of institutional contribution will still impact reviewers and application that are selected.	A description of the resources provided in the Facilities, Equipment and Other Resources document are reviewable, however, per NSF instructions, these resources should not be quantified. A reviewer needs to be able to assess all resources available to the project in order to consider whether sufficient resources are available to carry out the project as proposed. NSF's cost sharing policy was not directed at voluntary uncommitted cost sharing.
16.	Penn State University.	Collaborative Proposals, Chapter II.D.3.	Table of Documents for Lead and Non-Lead Organization documents: Please add the Collaborators & Other Affiliations Information under each Organizations column. This will clarify where it belongs in a Collaborative proposal.	Comment incorporated.
17.	Penn State University.	GOALI, Chapter II.E.4.b.	We believe the sentence should read: ''Supplemental funding to add GOALI elements to a currently funded NSF research project should be submitted by using the ''Supplemental Funding Request'' function in FastLane.''.	Comment incorporated.
18.	Penn State University.	Conference Proposals, Chapter II.E.7.	We believe the sentence should read: ''A conference proposal will be supported only if equivalent results cannot be obtained by attendance at regular meetings of professional societies. Although requests for support of a conference proposal ordinarily originates with educational institutions or scientific and engineering societies, they also may come from other groups.''.	Comment incorporated.
19.	Penn State University.	Travel Proposals, Chapter II.E.9.	We believe the sentence should read: ''A proposal for travel, either domestic and/or international, support for participation in scientific and engineering meetings are handled by the NSF organization unit with program responsibility for the area of interest.''.	Comment incorporated.
20.	Penn State University.	Proposal Preparation Checklist, Exhibit II–1 (Project Description).	We believe the sentence should read: ''Results from Prior NSF Support have been provided for PIs and co-PIs who have received NSF support within the last five years. Results related to Intellectual Merit and Broader Impacts are described under two separate, distinct headings and are limited to five pages of the project description.''.	Comment incorporated.

No.	Comment source	Topic & PAPPG Section	Comment	NSF Response
21.	Cal Tech	Senior Personnel Salaries and Wages, Chapter II.C.2.g.(i)(a).	The PAPPG states that ''NSF limits the salary compensation requested in the proposal budget for senior personnel to no more than two months of their regular salary in any one year.'' (emphasis added). The policy is very clear that the focus is on compensation requested, and not on salary expenditures. We agree with and are supportive of that distinction. Our concern here is largely a mechanical one. When we submit a proposal to NSF, how should we determine whether the amount of salary support being requested is ''more than two months of their regular salary in any one year?'' The answer is very simple if we are dealing with an investigator who has only one NSF grant. It gets much more complicated for investigators with multiple NSF grants, with widely overlapping performance periods. Should we be looking at currently active NSF awards and trying to determine that if the current proposal is funded, will there be a one-year period in which the amount of salary requested will exceed two months of salary? Should we look at currently funded NSF proposals or also take into account pending proposals, as well? We are seeking guidance in the PAPPG that provides some concrete steps to be followed to meet the policy requirement. In the absence of this guidance, we are never quite sure if the approach we are taking is or is not consistent with the policy.	Much like guidance contained in the Uniform Guidance, NSF policies are written to allow awardees maximum flexibility in the development of their internal controls to ensure compliance with NSF and federal requirements. As a result the NSF policy on senior personnel salaries and wages requires awardees to determine for themselves the best approach for ensuring compliance.
22.	Cal Tech	Voluntary Committed and Uncommitted Cost Sharing, Chapter II.C.2.g.(xii).	The discussion of voluntary committed and uncommitted cost sharing is very clear. The revisions to this section of the PAPPG have definitely improved the clarity.	Thank you for your comment.
23.	Cal Tech	High Performance Computing, Chapter II.D.7.	The information in this section is helpful for investigators who require high-performance computing resources, etc. It is good that the PAPPG has identified specific facilities that can provide advanced computational and data resources.	Thank you for your comment.
24.	Cal Tech	Indirect Costs, NSF Policy, Chapter X.D.1.	The statement that continuing increments and supplements will be funded using the negotiated indirect cost rate in effect at the time of the initial award is improved over the previous edition of the PAPPG. That clarity is very helpful and should reduce any confusion or misunderstanding about the intentions of NSF in these situations.	Thank you for your comment.
25.	University of Louisiana at Lafayette.	Definitions of Categories of Personnel, Exhibit II–7.	Our office has reviewed the proposed changes to the PAPPG and all seem to add clarity and better organization to the document. We do have a comment regarding Section II–61: Definition of senior personnel Faculty Associate (Faculty member) (or equivalent): Defined as an individual other than the Principal Investigator considered by the performing institution to be a member of its Faculty (or equivalent) or who holds an appointment as a Faculty member at another institution and who will participate in the project being supported. We recommend adding 'or equivalent' to the definition (see red text above) for clarity, since certain Center staff across our campus are not Faculty members but are eligible to submit proposals.	Comment incorporated.

No.	Comment source	Topic & PAPPG Section	Comment	NSF Response
26.	University of Arkansas at Little Rock.	NSF–NIH/OLAW MOU.	Relevant to the complications posed by the NSF–NIH/OLAW MOU regarding animal oversight, the latest revision of the Guidelines of the American Society of Mammologists for the use of wild mammals in research and education has just been published and is available at *http://www.mammalsociety.org/uploads/committee_files/CurrentGuidelines.pdf*. This document does a good job of explaining the enormous gulf that exists between effective and appropriate oversight of activities involving wild vertebrates and those using typical laboratory animals. Additionally, the ASM and Oxford University Press have collaborated on and are advertising a collection of papers that address these same concerns. That collection is available at *http://jmammal.oxfordjournals.org/page/Guidelines*.	Updated link has been incorporated.
27.	Kansas State University.	Project Summary, Chapter II.C.2.b.	The GPG really needs to be updated with the same information that is contained in FastLane on the Project Summary instructions. Specifically, the GPG doesn't tell the faculty the 4600 character limit.	This was a known defect in FastLane that has now been addressed. The Project Summary is limited to 1 page as stated in the PAPPG.
28.	Cornell University.	Cancelling Appropriations, Chapter VIII.E.6.	Thanks for making the draft FY17 PAPPG available. I noted the additional clarity surrounding cancelled funds, and appreciate things being made clearer. My understanding—but please correct me if I am wrong—is that the period of performance can never go beyond the life of the underlying appropriation. The question has been raised as to how one knows what year's funds were used for an award, and whether FASTLANE or other mechanisms will prevent a grantee-approved NCE that goes beyond the appropriation's life.	Your understanding is accurate. FastLane or other mechanisms will prevent an NCE that goes beyond the appropriation's life.
29.	Boise State University.	Collaborators & Other Affiliations Information, Chapter II.C.1.e.	NSF currently requires ''Collaborators & Other Affiliations'' as a single-copy document. It is not unusual for specific RFPs to require a second collaborators document in various formats. This is a time-consuming process for what is essentially duplicate information. My comment/request is that NSF have a single ''Collaborators & Other Affiliations'' document that is in the same format for all RFPs.	Additional scrutiny will be given in the review of NSF Program Solicitations to ensure that: (1) Any requirements that are supplemental to the COI requirements specified in the PAPPG receive an additional level of review; and (2) that the COI information is provided only once in a given proposal.

No.	Comment source	Topic & PAPPG Section	Comment	NSF Response
30.	NSF Office of the Inspector General.	Introduction, Section B.	''When NSF Grant General Conditions or an award notice reference a particular section of the PAPPG, then that section becomes part of the award requirements through incorporation by reference.'' This sentence is confusing in light of the preceding sentences, which state, ''Part II of the NSF Proposal & Award Policies & Procedures Guide sets forth NSF policies regarding the award, administration, and monitoring of grants and cooperative agreements. Coverage includes the NSF award process, from issuance and administration of an NSF award through closeout. Guidance regarding other grant requirements or considerations that either is not universally applicable or which do not follow the award cycle also is provided.'' NSF General Grant Conditions require recipients to comply with NSF policies (NSF General Grant Conditions, Article 1.d.2), which are set forth in this document. The sentence in question could wrongly lead one to believe that only sections of the PAPPG specifically mentioned in award terms and conditions need to be followed. We strongly suggest that this sentence be removed.	In large part, the PAPPG provides guidance and explanatory material to proposers and awardees. Therefore, it would be inappropriate to impose on NSF awardee organizations the requirement to comply with all such guidance and explanatory material as terms and conditions of an NSF award. NSF strongly believes that the articles specified in the General Conditions clearly articulate the parts of the PAPPG that are indeed requirements imposed on a recipient, and, for which they will be held responsible.
31.	NSF Office of the Inspector General.	Introduction, Section B.	''The PAPPG does not apply to NSF contracts.'' We suggest expanding this to include language that appeared in prior versions of the AAG: ''The PAPPG is applicable to NSF grants and cooperative agreements, unless noted otherwise in the award instrument. This Guide does not apply to NSF contracts.''.	Language has been revised to address issue.
32.	NSF Office of the Inspector General.	Special Exceptions to NSF's Deadline Date Policy, Chapter I.F.2.	''If available, written approval from the cognizant NSF Program Officer should be uploaded with the proposal as a Single Copy Document in FastLane. Proposers should then follow the written or verbal guidance provided by the cognizant NSF Program Officer.'' We suggest that approval for exceptions to the deadline date policy only be provided in writing rather than also allowing for the option of verbal approval.	The ability to receive verbal approval only is absolutely vital in cases of natural or anthropogenic events. We have received numerous complaints from PIs who did not even have access to a computer during the natural event, but wanted NSF to be aware that their proposal would not be able to be submitted on time. We believe that it is vital to retain such flexibility in cases of natural or anthropogenic events.
33.	NSF Office of the Inspector General.	Contingency and Management Fees, Chapter II.	General comment: We suggest that an explicit reference be made to the appropriate NSF guides and/or manuals that contain information related to the proper budgeting and expenditure of management fees and contingency funds.	A reference to the Large Facilities Manual has been incorporated into the opening of the budget section.
34.	NSF Office of the Inspector General.	Senior Personnel Salaries and Wages, Chapter II.C.2.g.(i)(a).	''This effort must be documented in accordance with 2 CFR §200, Subpart E.'' We suggest that the third sentence of the second paragraph be modified to add references to specific sections of the Uniform Guidance, as follows (new text in red): ''This effort must be documented in accordance with 2 CFR §200, Subpart E, including §§200.430 and 200.431.'' Adding a reference to specific sections of the Uniform Guidance will allow users to more easily identify and understand the regulations that govern their awards.	Section 2 CFR 200.430(i) is specifically relevant to documentation of personnel expenses. This reference has been incorporated.

No.	Comment source	Topic & PAPPG Section	Comment	NSF Response
35.	NSF Office of the Inspector General.	Senior Personnel Salaries and Wages, Chapter II.C.2.g.(i)(a).	''Under normal rebudgeting authority, as described in Chapters VII and X, a recipient can internally approve an increase or decrease in person months devoted to the project after an award is made, even if doing so results in salary support for senior personnel exceeding the two month salary policy. No prior approval from NSF is necessary as long as that change would not cause the objectives or scope of the project to change.'' We suggest that the indicated sentences be removed. Allowing awardees to exceed the general two month salary limit without NSF approval contradicts the prior paragraph in section II.C.2.g.(i)(a) that states, ''NSF regards research as one of the normal functions of faculty members at institutions of higher education. Compensation for time normally spent on research within the term of appointment is deemed to be included within the faculty member's regular organizational salary.'' By allowing awardees to unilaterally rebudget salary above the two-month limit, NSF runs the risk of reimbursing the very compensation costs that it deems ''to be included within the faculty member's regular organizational salary.''.	In accordance with final decisions issued by the NSF Audit Followup Official on this audit matter, by the nature of assistance awards, awardees have the responsibility to determine how best to achieve stated goals within project objective or scope. Research often requires adjustments, and NSF permits post-award re-budgeting of faculty compensation. NSF is aligned with federal guidelines and regulations in allowing re-budgeting of such compensation without prior Agency approval, unless it results in changes to objectives or scope.
36.	NSF Office of the Inspector General.	Administrative and Clerical Salaries and Wages Policy, Chapter II.C.2.g.(i)(b).	''Conditions (i) (ii) and (iv) above are particularly relevant for consideration at the budget preparation stage.'' As revised, the last sentence of this page highlights 3 of the 4 conditions as ''particularly relevant.'' The fourth condition, which is not highlighted as ''particularly relevant,'' is the requirement that such costs be included in the approved budget or have prior written approval of the cognizant NSF Grants Officer—a requirement that is explicitly stated in Chapter X, § A.3.b.2 of the proposed PAPPG. We suggest deleting the sentence, ''Conditions (i) (ii) and (iv) above are particularly relevant for consideration at the budget preparation stage.'' If desired, an alternative sentence such as the following could replace it: ''These conditions are particularly relevant for consideration at the budget preparation stage.''	NSF does not find this language confusing as (i), (ii) and (iv) are the only conditions that are relevant at the proposal preparation stage. That is why a similar sentence is not included in Chapter X.b.2. of the PAPPG.
37.	NSF Office of the Inspector General.	Equipment, Chapter II.C.2.g.(iii)(d).	''Any request to support such items must be clearly disclosed in the proposal budget, justified in the budget justification, and be included in the NSF award budget.'' We suggest including the following sentence at the end of the section on Equipment: ''See 2 CFR §§ 200.310 and 200.313 for additional information.'' Adding a reference to specific sections of the Uniform Guidance will allow users to more easily identify and understand the regulations that govern their awards.	2 CFR 200.313 will be incorporated.

No.	Comment source	Topic & PAPPG Section	Comment	NSF Response
38.	NSF Office of the Inspector General.	Entertainment, Chapter II.C.2.g.(xiii)(a).	''Costs of entertainment, amusement, diversion and social activities, and any costs directly associated with such activities (such as tickets to shows or sporting events, meals, lodging, rentals, transportation and gratuities) are unallowable. Travel, meal and hotel expenses of grantee employees who are not on travel status are unallowable. Costs of employees on travel status are limited to those specifically authorized by 2 CFR §200.474.'' We suggest keeping the two sentences that are proposed to be stricken at the end of this section (in addition to having this text also included in Chapter II.C.2.g.(iv)), as it is useful and applicable guidance to grantees looking up the rules in both sections. We also recommend adding an explicit reference to 2 CFR §200.438 at the end of the Entertainment paragraph so the last three sentences read: ''Travel, meal and hotel expenses of grantee employees who are not on travel status are unallowable. Costs of employees on travel status are limited to those specifically authorized by 2 CFR §200.474. See 2 CFR §200.438 for additional information about entertainment costs.'' Adding a reference to specific section of the Uniform Guidance will allow users to more easily identify and understand the regulations that govern their awards.	A reference to the relevant Uniform Guidance section will be added and the first stricken sentence identified will be kept. However, the second sentence will be removed to ensure clarity on the intended topic which is ''Entertainment Costs''. NSF believes that the search tools/options available in the PAPPG are sufficient to provide awardees quick and direct access to specific topics on items of costs, including travel and entertainment costs.
39.	NSF Office of the Inspector General.	NSF Award Conditions, Chapter VI.C.	''When these conditions reference a particular PAPPG section, that section becomes part of the award requirements through incorporation by reference.'' Please see our suggestions outlined in comment number 1.	See NSF Response to Comment 30.
40.	NSF Office of the Inspector General.	NSF-Approved Extension, Chapter VI.D.3.c(ii)(a).	''The request should be submitted to NSF at least 45 days prior to the end date of the grant.'' We believe that this alteration fully changes the guidance rather than simply updating it for clarity. We suggest returning the sentence back to the way it was originally written to state, ''The request must be submitted to NSF at least 45 days prior to the end date of the grant.'' This will allow responsible NSF officials adequate time to fully review the request.	NSF believes that the revised language is appropriate. Requests must be submitted at least 45 days prior to the end date of the grant. If submitted late, the request must include a strong justification as to why it was not submitted earlier. That provides the necessary ability for the Foundation to appropriately respond to situations where a compelling rationale is provided.
41.	NSF Office of the Inspector General.	Changes in Objectives or Scope, Chapter VII.B.1(a).	''The objectives or scope of the project may not be changed without prior NSF approval. Such change requests must be signed and submitted by the AOR via use of NSF's electronic systems.'' We suggest adopting similar guidance to the National Institutes of Health that defines change of scope and provides potential indicators. This guidance can be found in section 8.1.2.5 of the NIH Grants Policy Statement. Alternatively, we suggest adding a list of circumstances that could be considered a change of scope. For example, significant increase/decrease in a PI's effort allocated to the project, a significant decrease in research opportunities for graduate and undergraduate students, and significant (>25%) rebudgeting of costs among budget categories, which indicates a material change in the research methodology.	Rather than develop a listing of potential ''indicators'' of a change in scope, NSF prefers to continue use of Article 2 to identify areas that require NSF prior approval.

No.	Comment source	Topic & PAPPG Section	Comment	NSF Response
42.	NSF Office of the Inspector General.	Award Financial Reporting Requirements and Final Disbursements, Chapter VIII.E.6.	''NSF will notify grantees of any canceling appropriations on open awards in order for grantees to properly expend and draw down funds before the end of the fiscal year.'' We suggest adding a sentence that reminds awardees that funds must still be used on allowable, allocable, and reasonable costs, and that the drawdown must be related to expenses that have already been incurred or will be incurred within 3 days of the drawdown, per NSF policy. In the past, awardees have misconstrued NSF's guidance and have drawn down funds for expenditures that had not been incurred and were not anticipated to be incurred within 3 days.	A reference to the section on grantee payments has been incorporated into the paragraph on cancelling appropriations.
43.	NSF Office of the Inspector General.	Conflict of Interest Policies, Chapter IX.A.	''Guidance for development of such polices has been issued by university associations and scientific societies. In addition to the stated language, we suggest that NSF also provide examples of key components of an effective policy.	NSF defers to grantee organizations regarding the provision of examples in their policies that are most applicable to their organization.
44.	NSF Office of the Inspector General.	Conflict of Interest Policies, Chapter IX.A.	''significant financial interest'' does not include ''any ownership in the organization, if the organization is an applicant under the [SBIR/STTR programs]?'' What is intended regarding IX.A.2.b, that the term ''significant financial interest'' does not include ''any ownership in the organization, if the organization is an applicant under the [SBIR/STTR programs]?'' In the instance of a professor being proposed as co-PI for a university for a subcontract through an SBIR award, where that professor is also an owner of an SBIR applicant, this section may be interpreted to mean that professor does not have to disclose her ownership interest in the SBIR company. We suggest adding language to make this more clear and to remove any potential loop holes.	NSF believes that there is value in having a consistent SBIR exclusion between NSF and NIH. Excluding SBIR awards from NSF's policy reflects the fact that limited amounts of funding are provided for SBIR Phase I awards and an ownership interest in an SBIR institution at this phase is not likely to create a bias in the outcome of the research. This exclusion takes into consideration the fact that potentially biasing financial interests will be assessed during submission of SBIR Phase II proposals. Moreover, in order for an institution to receive the designation as being eligible for the SBIR program, this information is collected through the SBIR Company Registry by the Small Business Administration and identified in the supplemental SBIR document provided by SBA. Further, we note that the OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (September 10, 2015), require a Federal awarding agency to have an awardee conflict of interest policy and require the awardee to report conflicts of interest to the Federal awarding agency. (2 CFR 200.112) NSF's policy complies with the uniform standards.
45.	NSF Office of the Inspector General.	Conflict of Interest Policies, Chapter IX.A.	''an equity interest that, when aggregated for the investigator and the investigator's spouse and dependent children, meets both of the following tests: (i) Does not exceed $10,000 in value as determined through reference to public prices or other reasonable measures of fair market value; and (ii) does not represent more than a 5% ownership interest in any single entity;'' How were the thresholds of $10,000 or a 5% ownership interest in IX.A.2.e determined? How is 5% ownership interest defined and how is an individual supposed to determine if he/she has a 5% ownership interest? It may require knowledge outside of their control, for instance, knowledge of all owners and the total assets of the company in order to calculate their share. We suggest erring on the side of more disclosure as opposed to less, and simply requiring individuals with ownership interests to make disclosures so that it is more clear.	NSF's thresholds reflect language agreed upon in 1995, as a result of close coordination between NSF and NIH. At the time, both agencies' policies went through extensive public comment periods.

No.	Comment source	Topic & PAPPG Section	Comment	NSF Response
46.	NSF Office of the Inspector General.	Allowability of Costs, Chapter X.	General comment: We suggest that any references to 2 CFR § 200 include a hyperlink directly to the regulation to help facilitate better understanding by the user.	A hypertext link to 2 CFR § 200 already appears in the html version of the PAPPG.
47.	NSF Office of the Inspector General.	Pre-Award (Pre-Start Date) Costs, Chapter X.A.2.b.	We suggest language reinforcing the policy in Chapter VI, § E.2. that costs incurred under an ''old grant cannot be transferred to the new grant'' in the case of a renewal grant. The 90-day preaward cost allowability provision should not apply to renewal grants, even if the ''old'' award has been fully expended. This would constitute a transfer of a loss on the ''old'' grant to the ''new'' grant, which is unallowable under 2 CFR § 200.451.	Comment incorporated.
48.	NSF Office of the Inspector General.	Salaries and Wages, Chapter X.B.1.a.	''Compensation paid or accrued by the organization for employees working on the NSF-supported project during the grant period is allowable, in accordance with 2 CFR § 200.430'' We suggest including additional narrative here summarizing the requirements that are specified in 2 CFR § 200.430 (similar to what is included at Chapter II.C.2.g.(i)) as opposed to relying solely on awardees pulling up the reference to the Uniform Guidance. This will allow users to better understand the guidance and regulations applicable to their awards.	NSF believes that incorporation of the entire Uniform Guidance into the PAPPG is not prudent. The PAPPG would then become incredibly lengthy and unhelpful to users. Rather, a hypertext link is provided to each of the applicable references in the Uniform Guidance.
49.	NSF Office of the Inspector General.	Administrative and Clerical Salaries and Wages, Chapter X.B.2.	''Such costs are explicitly included in the approved budget or have the prior written approval of the cognizant NSF Grants Officer;'' We suggest that for direct charging of administrative/clerical salaries and wages to be allowable, they must be explicitly approved in the award notice. This is consistent with section X.A.3.b.2, which states that salaries of administrative and clerical staff must receive written prior approval from the Grants and Agreements Officer.	This recommendation is inconsistent with the approach established in 2 CFR § 200. Throughout the document, regular reference is made to ''are explicitly included in the budget.'' Such inclusion in the budget serves to explicitly document agency approval of specific cost categories at the time of the award.
50.	NSF Office of the Inspector General.	Intra-University (IHE) Consulting, Chapter X.B.3.	''If anticipated, any compensation for such consulting services should be disclosed in the proposal budget, justified in the budget justification, and included in the NSF award budget.'' We suggest including the following sentence at the end of this section: ''See 2 CFR § 200.430(h)(3) for additional information.'' Adding a reference to specific section of the Uniform Guidance will allow users to more easily identify and understand the regulations that govern their awards.	Comment incorporated.

Title of Collection: ''National Science Foundation Proposal & Award Policies & Procedures Guide.''

OMB Approval Number: 3145–0058.

Type of Request: Intent to seek approval to extend with revision an information collection for three years.

Proposed Project: The National Science Foundation Act of 1950 (Public Law 81–507) sets forth NSF's mission and purpose:

''To promote the progress of science; to advance the national health, prosperity, and welfare; to secure the national defense. . . .''

The Act authorized and directed NSF to initiate and support:

- Basic scientific research and research fundamental to the engineering process;
- Programs to strengthen scientific and engineering research potential;
- Science and engineering education programs at all levels and in all the various fields of science and engineering;
- Programs that provide a source of information for policy formulation; and
- Other activities to promote these ends.

NSF's core purpose resonates clearly in everything it does: Promoting achievement and progress in science and engineering and enhancing the potential for research and education to contribute to the Nation. While NSF's vision of the future and the mechanisms it uses to carry out its charges have evolved significantly over the last six decades, its ultimate mission remains the same.

Use of the Information: The regular submission of proposals to the Foundation is part of the collection of information and is used to help NSF fulfill this responsibility by initiating and supporting merit-selected research and education projects in all the scientific and engineering disciplines. NSF receives more than 50,000 proposals annually for new projects, and makes approximately 11,000 new awards.

Support is made primarily through grants, contracts, and other agreements

awarded to approximately 2,000 colleges, universities, academic consortia, nonprofit institutions, and small businesses. The awards are based mainly on merit evaluations of proposals submitted to the Foundation.

The Foundation has a continuing commitment to monitor the operations of its information collection to identify and address excessive reporting burdens as well as to identify any real or apparent inequities based on gender, race, ethnicity, or disability of the proposed principal investigator(s)/project director(s) or the co-principal investigator(s)/co-project director(s).

Burden on the Public

It has been estimated that the public expends an average of approximately 120 burden hours for each proposal submitted. Since the Foundation expects to receive approximately 52,000 proposals in FY 2017, an estimated 6,240,000 burden hours will be placed on the public.

The Foundation has based its reporting burden on the review of approximately 52,000 new proposals expected during FY 2017. It has been estimated that anywhere from one hour to 20 hours may be required to review a proposal. We have estimated that approximately 5 hours are required to review an average proposal. Each proposal receives an average of 3 reviews, resulting in approximately 780,000 burden hours each year.

The information collected on the reviewer background questionnaire (NSF 428A) is used by managers to maintain an automated database of reviewers for the many disciplines represented by the proposals submitted to the Foundation. Information collected on gender, race, and ethnicity is used in meeting NSF needs for data to permit response to Congressional and other queries into equity issues. These data also are used in the design, implementation, and monitoring of NSF efforts to increase the participation of various groups in science, engineering, and education. The estimated burden for the Reviewer Background Information (NSF 428A) is estimated at 5 minutes per respondent with up to 10,000 potential new reviewers for a total of 833 hours.

The aggregate number of burden hours is estimated to be 7,020,000. The actual burden on respondents has not changed.

Dated: August 3, 2016.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2016–18758 Filed 8–5–16; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0001]

Sunshine Act Meeting

DATE: August 8, 15, 22, 29, September 5, 12, 2016.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of August 8, 2016

There are no meetings scheduled for the week of August 8, 2016.

Week of August 15, 2016—Tentative

There are no meetings scheduled for the week of August 15, 2016.

Week of August 22, 2016—Tentative

There are no meetings scheduled for the week of August 22, 2016.

Week of August 29, 2016—Tentative

There are no meetings scheduled for the week of August 29, 2016.

Week of September 5, 2016—Tentative

There are no meetings scheduled for the week of September 5, 2016.

Week of September 12, 2016—Tentative

Monday, September 12, 2016

1:30 p.m. NRC All Employees Meeting (Public Meeting), Marriott Bethesda North Hotel, 5701 Marinelli Road, Rockville, MD 20852.

Friday, September 16, 2016

9:00 a.m. Briefing on Fee Process (Public Meeting), Contact: Michele Kaplan: 301–415–5256.

* * * * *

The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.*

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The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

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The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.* braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0739, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or email *Brenda.Akstulewicz@nrc.gov* or *Patricia.Jimenez@nrc.gov.*

Dated: August 3, 2016.

Denise L. McGovern,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2016–18831 Filed 8–4–16; 4:15 pm]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70–0938; NRC–2016–0152]

Massachusetts Institute of Technology; Renewal of Special Nuclear Materials License

AGENCY: Nuclear Regulatory Commission.

ACTION: License renewal application; receipt; notice of opportunity to request a hearing and to petition for leave to intervene; order imposing procedures.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering an application for the renewal of Special Nuclear Materials (SNM) License No. SNM–986, which currently authorizes the Massachusetts Institute of Technology (MIT) to possess and use SNM for education, research, and training programs. The renewed license would authorize MIT to continue to possess and use SNM for an additional 10 years from the date of issuance. The NRC proposes to determine that the renewal involves no significant hazards consideration. Because this application contains sensitive unclassified non-safeguards information (SUNSI) an order imposes procedures to obtain access to SUNSI for contention preparation.

DATES: A request for a hearing or petition for leave to intervene must be

filed by October 7, 2016. Any potential party as defined in § 2.4 of title 10 of the *Code of Federal Regulations* (10 CFR), who believes access to Sensitive Unclassified Non-Safeguards Information (SUNSI) is necessary to respond to this notice must request document access by August 18, 2016.

ADDRESSES: Please refer to Docket ID NRC–2016–0152 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0152. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents''* and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Ty Naquin, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–7352; email: *Tyrone.Naquin@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is considering an application for the renewal of SNM License No. SNM–986, which currently authorizes MIT to possess and use SNM for education, research, and training programs at its campus in Cambridge, Massachusetts. This license renewal, if approved, would authorize MIT to continue to possess and use SNM under the provisions of 10 CFR part 70, ''Domestic Licensing of Special Nuclear Materials,'' for an additional 10 years from the date of issuance.

By letter dated February 24, 2016, the NRC received an application from MIT filed pursuant to 10 CFR part 70, Domestic Licensing of Special Nuclear Materials, to renew SNM License No. SNM–986 (ML16081A295). The NRC received, by letter dated February 24, 2016, a revised application from MIT, requesting renewal of SNM License No. SNM–986 (ADAMS Accession No. ML16092A171). The application contains SUNSI.

Following an administrative review, documented in a letter to MIT dated June 6, 2016, the NRC staff determined that the request for renewal contains all essential elements and has been accepted for technical review, and is acceptable for docketing (ADAMS Accession No. ML16130A077). The application has been docketed in the existing docket for SNM License No. SNM–986, Docket No. 70–0938. If the NRC approves the renewal application, the approval will be documented in the renewal of NRC License No. SNM–986. The acceptance letter also estimated that the NRC staff would complete the technical review by June 2017.

The docketing of the renewal application does not preclude requests for additional information as the review proceeds, nor does it predict whether the Commission will grant or deny the application. Prior to a decision to renew the license, the Commission will make findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. These findings will be documented in a Safety Evaluation Report.

Because the licensed material will be used for research and development and for educational purposes, renewal of SNM License No. SNM–986 is an action that is categorically excluded from a requirement to prepare an environmental assessment or environmental impact statement, pursuant to 10 CFR 51.22(c)(14)(v).

II. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion to support its position on the issue. 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 the NRC's 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 October 7, 2016. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions for leave to intervene set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may also have the opportunity to participate under 10 CFR 2.315(c).

If a hearing is granted, any person who does not wish, or is not qualified, to become a party to the proceeding may, in the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of position on the issues, but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

III. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562, August 3, 2012). 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/electronic-sub-ref-mat.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's Electronic Filing 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.

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/electronic-sub-ref-mat.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's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/contact-us-eie.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC's Electronic Filing Help Desk is available between 9 a.m. and 7 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 stating why there is good cause for not filing electronically and 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 hearing request and petition 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.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation.

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing SUNSI.

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request such access. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication of this notice will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requester shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@nrc.gov,* respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1);

(3) The identity of the individual or entity requesting access to SUNSI and the requester's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly-available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention;

D. Based on an evaluation of the information submitted under paragraph C.(3) the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order[2] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after the requestor is provided access to that information. However, if more than 25 days remain between the date the petitioner is provided access to the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.

G. Review of Denials of Access.

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

[2] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

(1) If the request for access to SUNSI is denied by the NRC staff either after a determination on standing and need for access, or after a determination on trustworthiness and reliability, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requester may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) the presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (b) if another officer has been designated to rule on information access issues, with that officer.

H. Review of Grants of Access. A party other than the requester may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed with the Chief Administrative Judge within 5 days of the notification by the NRC staff of its grant of access.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[3]

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so Ordered.

Dated at Rockville, Maryland, this 1st day of August, 2016.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

Attachment 1—General Target Schedule for Processing and Resolving Requests for Access to Sensitive Unclassified Non-Safeguards Information in This Proceeding

Day	Event/Activity
0	Publication of **Federal Register** notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: Supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; and (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	U.S. Nuclear Regulatory Commission (NRC) staff informs the requester of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no ''need'' or no likelihood of standing, the deadline for petitioner/requester to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds ''need'' for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
0	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60	(Answer receipt +7) Petitioner/Intervener reply to answers.
>A + 60	Decision on contention admission.

[FR Doc. 2016–18628 Filed 8–5–16; 8:45 am]

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[3] Requesters should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562, August 3, 2012) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–285; NRC–2016–0040]

Omaha Public Power District; Fort Calhoun Station, Unit No. 1

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment application; withdrawal by applicant.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has granted the request of the Omaha Public Power District (the licensee) to withdraw its license amendment application dated August 31, 2015, as supplemented by letters dated December 23, 2015, and June 9, 2016, for a proposed amendment to Renewed Facility Operating License No. DPR–40. The proposed amendment would have revised the Fort Calhoun Station, Unit No. 1 (FCS), Updated Safety Analysis Report (USAR) to change the structural design methodology for Class I structures at FCS to use American Concrete Institute ultimate strength requirements, with the exception of the containment structure (cylinder, dome, and base mat), the spent fuel pool, and the foundation mats.

DATES: The license amendment was withdrawn by the licensee on July 27, 2016.

ADDRESSES: Please refer to Docket ID NRC–2016–0040 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0040. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents''* and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Carl F. Lyon, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2296, email: *Fred.Lyon@nrc.gov*.

SUPPLEMENTARY INFORMATION: The NRC has granted the request of the licensee to withdraw its August 31, 2015, license amendment application (ADAMS Accession No. ML15243A167), as supplemented by letters dated December 23, 2015, and June 9, 2016 (ADAMS Accession Nos. ML15363A042 and ML16165A028, respectively), for a proposed amendment to Renewed Facility Operating License No. DPR–40 for the FCS, located in Washington County, Nebraska.

The proposed amendment would have revised the FCS USAR to change the structural design methodology for Class I structures at FCS to use American Concrete Institute ultimate strength requirements, with the exception of the containment structure (cylinder, dome, and base mat), the spent fuel pool, and the foundation mats.

This proposed amendment was noticed in the **Federal Register** on March 1, 2016 (81 FR 10681). By letter dated July 27, 2016 (ADAMS Accession No. ML16209A126), the licensee withdrew its license amendment application.

Dated at Rockville, Maryland, this 2nd day of August 2016.

For the Nuclear Regulatory Commission.

Carl F. Lyon,

Project Manager, Plant Licensing Branch IV–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2016–18744 Filed 8–5–16; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

Request To Amend a License To Export Radioactive Waste

Pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) 110.70 (b) ''Public Notice of Receipt of an Application,'' please take notice that the U.S. Nuclear Regulatory Commission (NRC) has received the following request for an export license amendment. A copy of the request is available electronically through the Agencywide Documents Access and Management System, and can be accessed through the Public Electronic Reading Room link *http://www.nrc.gov/reading-rm.html* at the NRC Homepage.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register** (FR). Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555; the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555; and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

A request for a hearing or petition for leave to intervene may be filed with the NRC electronically in accordance with NRC's E-Filing rule promulgated in August 2007, 72 FR 49139; August 28, 2007. Information about filing electronically is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* To ensure timely electronic filing, at least 5 days prior to the filing deadline, the petitioner/requestor should contact the Office of the Secretary by email at *HEARINGDOCKET@NRC.GOV,* or by calling (301) 415–1677, to request a digital ID certificate and allow for the creation of an electronic docket.

In addition to a request for hearing or petition for leave to intervene, written comments, in accordance with 10 CFR 110.81, should be submitted within 30 days after publication of this notice in the **Federal Register** to Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Rulemaking and Adjudications.

The information concerning this application for an export license follows.

NRC EXPORT LICENSE AMENDMENT APPLICATION

[Description of material]

Name of applicant Date of application Date received Application No. Docket No.	Material type	Total quantity	End use	Country of destination
Perma-Fix Northwest, Inc. June 27, 2016 June 29, 2016 XW012/05 11005699	No change in material (Class A radioactive waste).	No increase (up to a maximum total of 5,500 tons of low-level waste).	Amend to: (1) Change the licensee's point of contact; (2) change the foreign suppliers name from Atomic Energy of Canada Limited to Canadian Nuclear Laboratories; (3) remove reference to Waste Classification as defined in CFR 61.55 and reference to Table A2 values of 49 CFR 173.435 from the waste description; and (4) change the date of expiration from September 30, 2017 to September 30, 2022.	Canada.

Dated at Rockville, Maryland, this 2nd day of August 2016.

For the Nuclear Regulatory Commission.

Heather M. Astwood,

Acting Deputy Director, Office of International Programs.

[FR Doc. 2016–18752 Filed 8–5–16; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Request To Amend a License To Import Radioactive Waste

Pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) 110.70 (b) ''Public Notice of Receipt of an Application,'' please take notice that the U.S. Nuclear Regulatory Commission (NRC) has received the following request for an import license amendment. A copy of the request is available electronically through the Agencywide Documents Access and Management System, and can be accessed through the Public Electronic Reading Room link *http://www.nrc.gov/reading-rm.html* at the NRC Homepage.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register** (FR). Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555; the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555; and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

A request for a hearing or petition for leave to intervene may be filed with the NRC electronically in accordance with NRC's E-Filing rule promulgated in August 2007, 72 FR 49139; August 28, 2007. Information about filing electronically is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* To ensure timely electronic filing, at least 5 days prior to the filing deadline, the petitioner/requestor should contact the Office of the Secretary by email at *HEARINGDOCKET@NRC.GOV*, or by calling (301) 415–1677, to request a digital ID certificate and allow for the creation of an electronic docket.

In addition to a request for hearing or petition for leave to intervene, written comments, in accordance with 10 CFR 110.81, should be submitted within 30 days after publication of this notice in the **Federal Register** to Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Rulemaking and Adjudications.

The information concerning this import license amendment application follows.

NRC IMPORT LICENSE APPLICATION

Name of applicant, date of application, date received, application No., docket No.	Description of material			Country from
	Material type	Total quantity	End use	
Perma-Fix Northwest, Inc ..... June 27, 2016 ..... June 29, 2016 ..... IW022/05 ..... 11005700	No change in material (Class A radioactive waste).	No change (not exceed quantity authorized under NRC license IW22/04 [5,500 tons]).	Amend to: (1) Change the licensee's point of contact; (2) change the foreign suppliers name from Atomic Energy of Canada Limited to Canadian Nuclear Laboratories; (3) remove reference to Waste Classification as defined in CFR 61.55 and reference to Table A2 values of 49 CFR 173.435 from the waste description; and (4) change the date of expiration from September 30, 2017 to September 30, 2022.	Canada.

For the Nuclear Regulatory Commission.

Dated this 2nd day of August, 2016, at Rockville, Maryland.

Heather M. Astwood,

Acting Deputy Director, Office of International Programs.

[FR Doc. 2016–18749 Filed 8–5–16; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32204; 812–14643]

OSI ETF Trust, et al.; Notice of Application

August 2, 2016.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act. The requested order would permit (a) index-based series of certain open-end management investment companies (''Funds'') to issue shares redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Fund shares to occur at negotiated market prices rather than at net asset value (''NAV''); (c) certain Funds to pay redemption proceeds, under certain circumstances, more than seven days after the tender of shares for redemption; (d) certain affiliated persons of a Fund to deposit securities into, and receive securities from, the Fund in connection with the purchase and redemption of Creation Units; (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the Funds (''Funds of Funds'') to acquire shares of the Funds; and (f) certain Funds (''Feeder Funds'') to create and redeem Creation Units in-kind in a master-feeder structure.

Applicants: O'Shares Investment Advisers, LLC (the ''Initial Adviser''), a Delaware limited liability company registered as an investment adviser under the Investment Advisers Act of 1940 and OSI ETF Trust (the ''Trust''), a Delaware statutory trust registered under the Act as an open-end management investment company with multiple series.

DATES: *Filing Dates:* The application was filed on April 21, 2016, and amended on July 29, 2016.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on August 26, 2016, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants: 60 State Street, Suite 700, Boston, MA 02190.

FOR FURTHER INFORMATION CONTACT: Bruce R. MacNeil, Senior Counsel at (202) 551–6817, or Daniele Marchesani, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Summary of the Application

1. Applicants request an order that would allow Funds to operate as index exchange traded funds (''ETFs'').[1] Fund shares will be purchased and redeemed at their NAV in Creation Units only. All orders to purchase Creation Units and all redemption requests will be placed by or through an ''Authorized Participant,'' which will have signed a participant agreement with the Distributor. Shares will be listed and traded individually on a national securities exchange, where share prices will be based on the current bid/offer market. Certain Funds may operate as Feeder Funds in a master-feeder structure. Any order granting the requested relief would be subject to the terms and conditions stated in the application.

2. Each Fund will hold investment positions selected to correspond generally to the performance of an Underlying Index. In the case of Self-Indexing Funds, an affiliated person, as defined in section 2(a)(3) of the Act (''Affiliated Person''), or an affiliated person of an Affiliated Person (''Second-Tier Affiliate''), of the Trust or a Fund, of the Adviser, of any sub-adviser to or promoter of a Fund, or of the Distributor will compile, create, sponsor or maintain the Underlying Index.[2]

3. Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified in the application, purchasers will be required to purchase Creation Units by depositing specified instruments (''Deposit Instruments''), and shareholders redeeming their shares will receive specified instruments (''Redemption Instruments''). The Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund's portfolio (including cash positions) except as specified in the application.

4. Because shares will not be individually redeemable, applicants request an exemption from section 5(a)(1) and section 2(a)(32) of the Act that would permit the Funds to register as open-end management investment companies and issue shares that are redeemable in Creation Units only.

5. Applicants also request an exemption from section 22(d) of the Act and rule 22c–1 under the Act as secondary market trading in shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus, and not at a price based on NAV. Applicants state that (a)

[1] Applicants request that the order apply to the initial series and any additional series of the Trust, and any other open-end management investment company or series thereof (each, included in the term ''Fund''), each of which will operate as an ETF and will track a specified index comprised of domestic or foreign equity and/or fixed income securities (each, an ''Underlying Index''). Any Fund will (a) be advised by the Initial Adviser or an entity controlling, controlled by, or under common control with the Initial Adviser (each, an ''Adviser'') and (b) comply with the terms and conditions of the application.

[2] Each Self-Indexing Fund will post on its Web site the identities and quantities of the investment positions that will form the basis for the Fund's calculation of its NAV at the end of the day. Applicants believe that requiring Self-Indexing Funds to maintain full portfolio transparency will help address, together with other protections, conflicts of interest with respect to such Funds.

secondary market trading in shares does not involve a Fund as a party and will not result in dilution of an investment in shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants represent that share market prices will be disciplined by arbitrage opportunities, which should prevent shares from trading at a material discount or premium from NAV.

6. With respect to Funds that effect creations and redemptions of Creation Units in kind and that are based on certain Underlying Indexes that include foreign securities, applicants request relief from the requirement imposed by section 22(e) in order to allow such Funds to pay redemption proceeds within fifteen calendar days following the tender of Creation Units for redemption. Applicants assert that the requested relief would not be inconsistent with the spirit and intent of section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds.

7. Applicants request an exemption to permit Funds of Funds to acquire Fund shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any broker or dealer registered under the Securities Exchange Act of 1934, to sell shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act. The application's terms and conditions are designed to, among other things, help prevent any potential (i) undue influence over a Fund through control or voting power, or in connection with certain services, transactions, and underwritings, (ii) excessive layering of fees, and (iii) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A) and (B) of the Act.

8. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act to permit persons that are Affiliated Persons, or Second Tier Affiliates, of the Funds, solely by virtue of certain ownership interests, to effectuate purchases and redemptions in-kind. The deposit procedures for in-kind purchases of Creation Units and the redemption procedures for in-kind redemptions of Creation Units will be the same for all purchases and redemptions and Deposit Instruments and Redemption Instruments will be valued in the same manner as those investment positions currently held by the Funds. Applicants also seek relief from the prohibitions on affiliated transactions in section 17(a) to permit a Fund to sell its shares to and redeem its shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.[3] The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the policies of the Fund of Funds and will be based on the NAVs of the Funds.

9. Applicants also request relief to permit a Feeder Fund to acquire shares of another registered investment company managed by the Adviser having substantially the same investment objectives as the Feeder Fund (''Master Fund'') beyond the limitations in section 12(d)(1)(A) and permit the Master Fund, and any principal underwriter for the Master Fund, to sell shares of the Master Fund to the Feeder Fund beyond the limitations in section 12(d)(1)(B).

10. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

[3] The requested relief would apply to direct sales of shares in Creation Units by a Fund to a Fund of Funds and redemptions of those shares. Applicants, moreover, are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an Affiliated Person, or a Second-Tier Affiliate, of a Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

For the Commission, by the Division of Investment Management, under delegated authority.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–18706 Filed 8–5–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78462; File No. SR–NASDAQ–2016–101]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change To Add Nasdaq Rule 7046 (Nasdaq Trading Insights)

August 2, 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 July 26, 2016, The NASDAQ Stock Market LLC (''Nasdaq'' 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 Nasdaq. 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

Nasdaq proposes to add Nasdaq Rule 7046 (Nasdaq Trading Insights) to the Nasdaq rule book.

The text of the proposed rule change is available at *http://nasdaq.cchwallstreet.com/,* at Nasdaq's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq 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. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to add Nasdaq Rule 7046 (Nasdaq Trading Insights) to the Nasdaq rule book. The Nasdaq Trading Insights product is an optional market data service comprised of four distinct market data components. Specifically, and as described in greater detail below, the market data components include: (a) Missed Opportunity—Liquidity; (b) Missed Opportunity—Latency; (c) Peer Benchmarking; and (d) Liquidity Dynamics Analysis. Market participants may opt to choose to receive any or all of the market data components and the corresponding fee will be assessed based on the number of components selected.[3]

Currently, Nasdaq provides real-time prices and analytics in the marketplace. The Exchange believes that the additional data points from the matching engine outlined below may help market participants to gain a better understanding about their interactions with the Exchange. The four optional market data components that comprise the Nasdaq Trading Insights product will help market participants by providing them with a chance to learn more about when they may have better opportunities to access liquidity and to receive better execution rates. The proposed market data product will increase transparency and democratize information so that all firms that themselves may not have the expertise to generate such information may elect to subscribe to one or all of the components of the Nasdaq Trading Insights product. None of the components are real-time market data products.

(a) Missed Opportunity—Liquidity

Trading firms may seek to submit orders for the greatest number of shares possible without exceeding the amount of shares actually available. This component identifies when an order from a market participant might have been increased in size and thus executed more shares.[4]

For example, if a firm sends in an order that was fully executed and subsequently sends another order (or multiple orders) at the same or inferior price-level than originally executed, this indicates that they could have oversized their original order. This missed opportunity could have resulted in a larger fill which will allow firms to change their trading patterns to trade more efficiently. The Exchange will provide this information to firms on a T + 1 basis. The Missed Opportunity—Liquidity component may also benefit firms by providing greater visibility into exactly what was missed in trading so they may optimize their models and trading patterns to yield better returns.

The data included in this component is unique for each market participant's port and only that market participant is eligible to receive this data upon voluntarily opting to pay the corresponding fee (as previously noted, the corresponding fees will be included in a future filing). The Exchange will ensure that each market participant receives only their own unique data and will not be able to obtain any other market participant's unique data.

Market participants may already be able to derive the same data that is provided by this component based on their executions and algorithms that they have created. As more firms create increasingly sophisticated algorithms, they are able to determine where hidden pockets of liquidity exist. With this component, the Exchange is providing the information necessary for market participants interested in gaining insight into hidden pockets of liquidity and potentially improving their trading performance. For example, if a firm continuously executes against hidden orders and creates a model to potentially identify the amount of hidden liquidity for individual securities at certain time periods, it will be able to essentially recreate this product for itself.

(b) Missed Opportunity—Latency

Market participants generally would use liquidity accessing orders if there is a high probability that it will execute an order resting on the Exchange order book. This component identifies by how much time an order that may have been marketable missed executing.[5] As with the Missed Opportunity—Liquidity component described above, this component also will provide greater visibility into exactly what was missed in trading so market participants may optimize their models and trading patterns to yield better execution results. No specific information about resting orders on the Exchange book will be provided.

This component will help market participants to better understand by how much time they missed specific orders, thus determining whether they want to invest in the technology to mitigate the misses. For example, if a market participant sends in a marketable order, but an order resting on the Exchange order book was subsequently canceled or executed, the Exchange will let the market participant know for each of these orders submitted by how much time they missed an execution. The Exchange will provide this information to firms on a T + 1 basis.

Additionally, the data included in this component will be based only on the data of the market participant that opts to pay the corresponding fee to receive it (as previously noted, the corresponding fees will be included in a future filing). The Exchange will restrict all other market participants from receiving another market participant's data.

(c) Peer Benchmarking

This component ranks the quality of a market participant's trading performance against its peers.[6] Market

[3] A separate filing will address the pricing for the Nasdaq Trading Insights product, which also will be implemented on September 1, 2016, if approved by the SEC.

[4] The data elements for this component, in summary, are the: (i) Issue (Nasdaq symbol for the issue); (ii) Buy/Sell Indicator (side of the market at which the market participants are quoting); (iii) Price (the price (inclusive of decimal point) at which Nasdaq Market Center market participants had order interest for the given security at the given time); (iv) Order Reference Number (the unique reference number assigned to the new order at the time of receipt); (v) Order Entry Time Stamp (the time order was received in the system); (vi) Share Quantity (total number of shares submitted on original order); and (vii) Missed Opportunity Quantity (total number of shares missed).

[5] The data elements for this component, in summary, are the: (i) Issue (Nasdaq symbol for the issue); (ii) Buy/Sell Indicator (side of the market at which the market participants are quoting); (iii) Price (the price (inclusive of decimal point) at which Nasdaq Market Center market participants had order interest for the given security at the given time); (iv) Order Reference Number (the unique reference number assigned to the new order at the time of receipt); (v) Order Size; (vi) Matching Engine times for incoming orders; (vii) Missed Opportunity times; and (viii) Reasons for not getting fills.

[6] The data elements for this component, in summary, include: (i) Total Dollar Volume; (ii) Total Share Volume, Share Volume of Liquidity Provision and Accessible for Tape A, Tape B and Tape C; (iii) Number of Trades, including Hidden Orders and Number of Hidden Trades; (iv) Mean/Median Trade Size; (v) Mean/Median Size of Hidden Orders; (vi) Number of Buy/Sell Orders Received; (vii) Number of Aggressive Orders, Mean Size of Aggressive Buy/Sell Orders; (viii) Number of Passive Orders, Mean Size of Displayed Passive Order, Hidden Passive for Buy and Sell Orders; (ix) Number of Orders at Best Bid/Ask Level; (x) Mean Cost to Execute for Buy and Sell for 1000, 5000, 10000 Shares; (xi) Number of Modified/Cancelled Buy/Sell Orders; (xii) Mean Buy/Sell Price Range; (xiii) Total Number of Buy/Sell Price; (xiv) Number, Mean—Resting Buy/Sell Price Points; (xv) Missed Opportunities—Liquidity, Latency; (xvi) Mean Share Volume Against Hidden, Mean Quote Rotation Time.

participants will be able to view their own trading activity broken out by port with each being ranked independently for each metric against their peers trading with the Exchange. By understanding its ranking and its associated ranking with peers, market participants will have a better idea of how the competition is performing vis-à-vis their own trading.

Peer Benchmarking will help market participants better understand trending over time and whether behavioral changes they make translate into the expected results. Additionally, this component will assist market participants in understanding their rankings independent of any trading pattern changes the market participant may have made. It will let market participants know what their metric is ranked within their peer group and the market participant can glean how it is changing over time. Each port will be categorized into a peer grouping that will be based upon a given set of metrics that will share similar trading behavior characteristics and must include at least ten peers within a security. The Exchange will provide this information to firms on a T + 1 basis.

The data included in Peer Benchmarking is specific to a particular market participant's port and only the market participant who pays the optional fee to receive the component is eligible to receive Peer Benchmarking. Nasdaq will restrict all other market participants from receiving this market participant's Peer Benchmark (as previously noted, the corresponding fees will be included in a future filing).

(d) Liquidity Dynamics Analysis

This component offers extensive historical insight into aggregated displayed and hidden orders on the Exchange for Reg NMS securities listed on Nasdaq, the New York Stock Exchange, and other U.S. equity exchanges. Specifically, this component will contain aggregated metrics and statistics about the liquidity on Nasdaq, including hidden liquidity on a security level.[7] This will be presented as an FTP[8] file with calculated statistics over a time window of 30 seconds, subject to change. The data will be analyzed every 30 seconds starting at 10 minutes prior to the market open and 10 minutes after the market close and it will include all orders that are visible, anonymous or non-displayed for each security. The Exchange will provide this information to firms on a T + 1 basis.

Market participants may opt to utilize this component to better understand when pockets of accessible liquidity exist. This may help market participants optimize their algorithm and Smart Order Router to potentially oversize orders and get better fill rates.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[9] in general and with Sections 6(b)(5) of the Act,[10] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in 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. This proposal is in keeping with those principles in that it promotes increased transparency through the dissemination of the optional Nasdaq Trading Insights market data product to those interested in paying to receive any or all of the four distinct market data components comprising the product.

The Exchange also believes this proposal is consistent with Section 6(b)(5) of the Act because it protects investors and the public interest and promotes just and equitable principles of trade by providing investors with new options for receiving market data as requested by potential purchasers. The proposed rule change would benefit investors by facilitating their prompt access to the value added information that is included in the Nasdaq Trading Insights market data product, which includes the following components: (a) Missed Opportunity—Liquidity; (b) Missed Opportunity—Latency; (c) Peer Benchmarking; and (d) Liquidity Dynamics Analysis.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker dealers increased authority and flexibility to offer new and unique market data to consumers of such data. It was believed that this authority would expand the amount of data available to users and consumers of such data and also spur innovation and competition for the provision of market data. The Exchange believes that the Nasdaq Trading Insights product is the sort of market data product that the Commission envisioned when it adopted Regulation NMS.

The Commission concluded that Regulation NMS—by deregulating the market in proprietary data—would itself further the Act's goals of facilitating efficiency and competition:

> [E]fficiency is promoted when broker-dealers who do not need the data beyond the prices, sizes, market center identifications of the NBBO and consolidated last sale information are not required to receive (and pay for) such data. The Commission also believes that efficiency is promoted when broker-dealers may choose to receive (and pay for) additional market data based on their own internal analysis of the need for such data.[11]

By removing ''unnecessary regulatory restrictions'' on the ability of exchanges to sell their own data, Regulation NMS advanced the goals of the Act and the principles reflected in its legislative history. This proposed new market data product provides investors with new options for receiving market data, which was a primary goal of the market data amendments adopted by Regulation NMS.[12]

(a) Missed Opportunity—Liquidity

This component is designed for trading firms that seek to submit orders for the greatest number of shares possible without exceeding the amount of shares actually available. It identifies when an order from a market participant might have been increased in size and thus executed more shares.

The Exchange believes that providing this optional liquidity to interested market participants for a fee is consistent with facilitating transactions in securities, removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest

[7] The data elements for this component, in summary, are the: (i) Issue (Nasdaq symbol for the issue); (ii) Start Time; (iii) End Time; (iv) Side (identifies buy vs. sell side); (v) Level (level associated with the price); (vi) Average Depth (average depth of the book); (vii) Minimum Depth (minimum depth of the book); (viii) Maximum Depth (maximum depth of the book); (ix) Standard Deviation Depth; (x) Average Price; (xi) Minimum Price (minimum price in the book); (xii) Maximum Price (maximum price in the book); (xiii) Median Price (median price in the book); (xiv) Standard Deviation—Price; (xv) Minimum Distance from the QBBO; (xvi) Maximum Distance from the QBBO; (xvii) Mean Distance from the QBBO; (xviii) Median Distance from the QBBO; and (xix) Standard Deviation—Distance from QBBO.

[8] FTP means a File Transfer Protocol, which is a standard network protocol used to transfer computer files between a client and server on a computer network.

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(5).

[11] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005) (''Regulation NMS Adopting Release'').

[12] *See* Regulation NMS Adopting Release, *supra,* at 37503.

because it provides greater visibility into exactly what was missed in trading so market participants may optimize their models and trading patterns to yield better execution results by identifying when an order from a market participant might have been increased in size and thus executed more shares.

(b) Missed Opportunity—Latency

This component is designed for market participants that are interested in gaining insight into latency in connection with orders that failed to execute against an order resting on the Exchange order book since it identifies by how much time an order that may have been marketable missed executing.

The Exchange believes that providing this optional latency data to interested market participants for a fee is consistent with facilitating transactions in securities, removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest because it provides greater visibility into exactly what was missed in trading so market participants may optimize their models and trading patterns to yield better execution results by identifying by how much time an order that may have been marketable missed executing.

(c) Peer Benchmarking

This component is designed for market participants that are interested in gaining insight into the quality of its trading performance against its peers trading with the Exchange.

The Exchange believes that providing this optional Peer Benchmarking data to interested market participants for a fee is consistent with facilitating transactions in securities, to removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest because it provides additional insight for market participants into how the competition is performing vis-à-vis their own trading, as well as helping market participants better understand trending over time and whether behavioral changes they make translate into the expected results.

(d) Liquidity Dynamics Analysis

This component is designed for market participants that are interested in gaining insight into when pockets of accessible liquidity exist. This component may help market participants optimize their algorithm and Smart Order Routers to potentially oversize orders and get better fill rates.

The Exchange believes that providing this optional data concerning historical insight into aggregated displayed and hidden orders on the Exchange for Reg NMS securities listed on Nasdaq, the New York Stock Exchange, and other U.S. equity exchanges, to interested market participants for a fee is consistent with facilitating transactions in securities, removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest because it provides greater visibility into when pockets of accessible liquidity exist. This, in turn, may help market participants optimize their algorithm and Smart Order Routers to potentially oversize orders and get better fill rates.

In summary, the Nasdaq Trading Insights market data product will help to protect a free and open market by providing additional non-core data (offered on an optional basis for a fee) to the marketplace and by providing investors with greater choices.[13] Additionally, the proposal would not permit unfair discrimination because each component of the product will be available to all of the Exchange's participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. In fact, the Exchange believes that the Nasdaq Trading Insights market data product will enhance competition [14] by providing new options for receiving market data to market participants, which was a primary goal of the market data amendments adopted by Regulation NMS.[15]

The market for proprietary data products is also highly contestable because market entry is rapid, inexpensive, and profitable. The history of electronic trading is replete with examples of entrants that swiftly grew into some of the largest electronic trading platforms and proprietary data producers: Archipelago, Bloomberg Tradebook, Island, RediBook, Attain, TracECN, BATS Trading and BATS/Direct Edge. A proliferation of dark pools and other ATSs operate profitably with fragmentary shares of consolidated market volume.

Regulation NMS, by deregulating the market for proprietary data, has increased the contestability of that market. While broker-dealers (''BDs'') have previously published their proprietary data individually, Regulation NMS encourages market data vendors and BDs to produce proprietary products cooperatively in a manner never before possible. Multiple market data vendors already have the capability to aggregate data and disseminate it on a profitable scale, including Bloomberg and Thomson Reuters. In Europe, Cinnober aggregates and disseminates data from over 40 brokers and multilateral trading facilities.[16]

In the case of TRFs, the rapid entry of several exchanges into this space in 2006–2007 following the development and Commission approval of the TRF structure demonstrates the contestability of this aspect of the market.[17] Given the demand for trade reporting services that is itself a by-product of the fierce competition for transaction executions—characterized notably by a proliferation of ATSs and BDs offering internalization—any supra-competitive increase in the fees associated with trade reporting or TRF data would shift trade report volumes from one of the existing TRFs to the other [18] and create incentives for other TRF operators to enter the space. Alternatively, because BDs reporting to TRFs are themselves free to consolidate the market data that they report, the market for over-the-counter data itself, separate and apart from the markets for execution and trade reporting services—is fully contestable.

In this instance, the proposed rule change to offer the optional four components that comprise the Nasdaq Trading Insights market data product for a fee is subject to market participant interest. Additionally, some market participants may already be able to derive the same data that is provided by this component based on their executions and algorithms that they have created.

In sum, if the four distinct market data components that comprise the Nasdaq Trading Insights product and that are the subject of the rule change

[13] *See* Sec. Indus. Fin. Mkts. Ass'n (SIFMA), Initial Decision Release No. 1015, 2016 SEC LEXIS 2278 (ALJ June 1, 2016) (finding the existence of vigorous competition with respect to non-core market data).

[14] *Id.*

[15] *See* Regulation NMS Adopting Release, *supra,* at 37503.

[16] *See http://www.cinnober.com/boat-trade-reporting.*

[17] The low cost exit of two TRFs from the market is also evidence of a contestable market, because new entrants are reluctant to enter a market where exit may involve substantial shut-down costs.

[18] It should be noted that the FINRA/NYSE TRF has, in recent weeks, received reports for almost 10% of all over-the-counter volume in NMS stocks.

proposed herein are unattractive to market participants, market participants will opt not to purchase any of the four components. Accordingly, the Exchange does not believe that the proposed change will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove 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–NASDAQ–2016–101 *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–NASDAQ–2016–101. 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–NASDAQ–2016–101 and should be submitted on or before August 29, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–18703 Filed 8–5–16; 8:45 am]

BILLING CODE 8011–01–P

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32201; 812–14585]

Managed Portfolio Series and Port Street Investments, LLC; Notice of Application

August 2, 2016.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from section 15(a) of the Act and rule 18f–2 under the Act, as well as from certain disclosure requirements in rule 20a–1 under the Act, Item 19(a)(3) of Form N–1A, Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A under the Securities Exchange Act of 1934, and sections 6–07(2)(a), (b), and (c) of Regulation S–X (''Disclosure Requirements''). The requested exemption would permit an investment adviser to hire and replace certain subadvisers without shareholder approval and grant relief from the Disclosure Requirements as they relate to fees paid to the subadvisers.

APPLICANTS: Managed Portfolio Series (the ''Trust''), a Delaware statutory trust registered under the Act as an open-end management investment company, and Port Street Investments, LLC (the ''Initial Adviser''), a California limited liability company registered as an investment adviser under the Investment Advisers Act of 1940, on behalf of each series of the Trust that is a Fund (as defined below) (collectively, with the Trust and the Initial Adviser, the ''Applicants'').

DATES: *Filing Dates:* The application was filed on December 8, 2015 and amended on May 3, 2016.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on August 29, 2016, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants: Jeanine M. Bajczyk, Esq., Managed Portfolio Series, 615 East Michigan Street, Milwaukee, WI 53202; Graham B. Pierce, Port Street Investments, LLC, 24 Corporate Plaza, Suite 150, Newport Beach, CA 92660.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Senior Counsel, at (202) 551–6876, or Mary Kay Frech, Branch Chief, at (202) 551–6814 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Summary of the Application

1. The Adviser will serve as the investment adviser to the Funds pursuant to an investment advisory agreement with the Trust (the ''Advisory Agreement'').[1] The Adviser will provide the Funds with continuous and comprehensive investment management services, subject to the supervision of, and policies established by, each Fund's board of trustees (''Board''). The Advisory Agreement permits the Adviser, subject to the approval of the Board, to delegate to one or more subadvisers (each, a ''Subadviser'' and collectively, the ''Subadvisers'') the responsibility to provide the day-to-day portfolio investment management of each Fund, subject to the supervision and direction of the Adviser. The primary responsibility for managing the Funds will remain vested in the Adviser. The Adviser will hire, evaluate, allocate assets to and oversee the Subadvisers, including determining whether a Subadviser should be terminated, at all times subject to the authority of the Board.

2. Applicants request an exemption to permit the Adviser, subject to Board approval, to hire certain Subadvisers pursuant to Subadvisory Agreements and materially amend existing Subadvisory Agreements without obtaining the shareholder approval required under section 15(a) of the Act and rule 18f–2 under the Act.[2] Applicants also seek an exemption from the Disclosure Requirements to permit a Fund to disclose (as both a dollar amount and a percentage of the Fund's net assets): (a) The aggregate fees paid to the Adviser and any Affiliated Subadviser; and (b) the aggregate fees paid to Subadvisers other than Affiliated Subadvisers (collectively, ''Aggregate Fee Disclosure''). For any Fund that employs an Affiliated Subadviser, the Fund will provide separate disclosure of any fees paid to the Affiliated Subadviser.

3. Applicants agree that any order granting the requested relief will be subject to the terms and conditions stated in the application. Such terms and conditions provide for, among other safeguards, appropriate disclosure to Fund shareholders and notification about subadvisory changes and enhanced Board oversight to protect the interests of the Funds' shareholders.

4. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provisions of the Act, or any rule thereunder, if such relief is necessary or appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act. Applicants believe that the requested relief meets this standard because, as further explained in the application, the Advisory Agreements will remain subject to shareholder approval while the role of the Subadvisers is substantially similar to that of individual portfolio managers, so that requiring shareholder approval of Subadvisory Agreements would impose unnecessary delays and expenses on the Funds. Applicants believe that the requested relief from the Disclosure Requirements meets this standard because it will improve the Adviser's ability to negotiate fees paid to the Subadvisers that are more advantageous for the Funds.

For the Commission, by the Division of Investment Management, under delegated authority.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–18683 Filed 8–5–16; 8:45 am]

BILLING CODE 8011–01–P

[1] Applicants request relief with respect to any future series of the Trust and other existing or future registered open-end management company or series thereof that: (a) is advised by the Initial Adviser, or any person controlling, controlled by or under common control with the Initial Adviser or its successor (each, also an ''Adviser''); (b) uses the manager of managers structure described in the application; and (c) complies with the terms and conditions of the application (any such series, a ''Fund'' and collectively, the ''Funds''). For purposes of the requested order, ''successor'' is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

[2] The requested relief will not extend to any Subadviser that is an affiliated person, as defined in section 2(a)(3) of the Act, of the Trust or the Adviser, other than by reason of serving as a subadviser to one or more of the Funds, or as an adviser or subadviser to any series of the Trust other than the Funds (''Affiliated Subadviser'').

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78459; File No. SR–BatsEDGA–2016–17]

Self-Regulatory Organizations; Bats EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Reflect the Dissolution of One of the Exchange's Intermediate Holding Companies, Direct Edge Holdings LLC

August 2, 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 July 25, 2016, Bats EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') 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 this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to reflect the dissolution of one of the Exchange's intermediate holding companies, Direct Edge Holdings LLC (''DEH''), on December 31, 2015, by: (i) Amending the bylaws of the Exchange's ultimate parent company, Bats Global Markets, Inc. (the ''Corporation''), to remove reference to DEH, as well as Bats Global Markets Holdings, an intermediate holding company wholly owned by the Corporation (''BGMH''), (ii) amending the bylaws of the Exchange to remove reference to DEH, (iii) deleting the DEH certificate of formation and operating agreement from the Exchange's rules, and (iv) amending the operating agreement of the Exchange's sole stockholder, Direct Edge LLC (''DE LLC''), to reflect that DE LLC's sole member is the Corporation rather than DEH and to make other related changes.

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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

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

On December 17, 2015, DEH filed a certificate of cancellation with the State of Delaware, effective December 31, 2015. As a result, DEH was dissolved, its affairs wound up, and its certificate of formation and operating agreement were cancelled, each effective December 31, 2015. In connection with DEH's dissolution, the Corporation proposes to amend its bylaws on-file with the Commission to remove reference to DEH because the entity no longer exists. The Exchange also proposes to remove reference to BGMH because inclusion of the reference to BGMH is unnecessary. Specifically, the applicable provision relates to any entity in which the Corporation holds an interest and the text the Exchange proposes to eliminate is a parenthetical that was intended to provide examples, not an exhaustive list, of such entities.

Similarly, the Exchange intends to amend its bylaws to remove reference to DEH. Specifically, the Exchange proposes to remove references to DEH contained in Article XI, Section 2 of the bylaws, which prohibits members of the boards of affiliated entities from attending meetings related to the self-regulatory function of the Exchange.

Because DEH has been dissolved, the Exchange also proposes to delete the DEH certificate of formation and operating agreement from the Exchange's rules. Though the DEH certificate of formation did not have any information pertinent to the Exchange, the Exchange notes that the DEH operating agreement did contain certain provisions applicable to the Exchange's status as a self-regulatory organization. For example, Article X, Section 1 provided that DEH would not interfere with the Exchange's responsibilities under the Act and Article X, Section 2 provided that DEH would cooperate with the Exchange in furtherance of such responsibilities. These provisions and the others in the operating agreement of DEH related to the Exchange were designed to impose restrictions upon DEH for so long as DEH indirectly owned the Exchange or were intended to require cooperation by DEH to ensure that the Exchange could meet its regulatory obligations. Thus, while the dissolution of DEH and the proposed elimination of the operating agreement does remove some provisions applicable to the Exchange, there is no impact on the Exchange. The Exchange notes that each one of these provisions is duplicative of a provision included in the operating agreement of DE LLC. Also, the Exchange notes that the primary limitations upon the interference with the independence of the Exchange related to either ownership or governance are contained either in the organizational documents of Exchange or the Corporation, and not the organizational documents of any intermediate holding company.

Finally, DE LLC intends to amend and restate its operating agreement to reflect that DE LLC's sole member is the Corporation rather than DEH and include the contact information of the member. In connection with these changes, the Exchange also proposes to reflect the following changes to the operating agreement of DE LLC: (i) General language to reflect the amendment and restatement of the operating agreement; and (ii) restructuring of certain language related to DE LLC's formation. None of the proposed changed described above requires a filing with the State of Delaware.

The purpose of this rule filing is to amend the bylaws of the Corporation, the ultimate parent company of the Exchange, to amend the bylaws of the Exchange, and to amend and restate the operating agreement of DE LLC, the sole stockholder of the Exchange, each as described in this proposal.[5] The purpose of the rule filing is also to remove reference to the DEH certificate of formation and operating agreement, as neither document is still operative. Thus, the changes described herein only relate to references contained in the bylaws of the Corporation and the Exchange as well as the operating agreement of DE LLC, and do not impact the governance of the Exchange. The Exchange will continue to be governed by its existing certificate of incorporation and bylaws, as amended by this proposal. The stock in, and voting power of, the Exchange will continue to be directly and solely held by DE LLC, and the governance of the Exchange will continue under its existing structure.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and 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.[6] In particular, the proposal is consistent with Section 6(b)(1) of the Act, because it retains, without modification, the existing limitations on ownership and total voting power that currently exist and that are designed to prevent any stockholder from exercising undue control over the operation of the Exchange and to assure that the Exchange is able to carry out its regulatory obligations under the Act. Under the proposal, the Corporation is making certain administrative changes to the bylaws of the Corporation, the bylaws of the Exchange and the operating agreement of DE LLC. These changes, however, do not impact the governance of the Exchange nor do they modify the ownership of the Corporation.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes any burden on competition. As described above, the proposed rule change is simply to reflect the dissolution of DEH, including the deletion of the certificate of formation and operating agreement of DEH and all references to DEH in the governance documents of the Corporation, the Exchange, and DE LLC. The Exchange has also proposed to remove an unnecessary reference in the Corporation's bylaws to BGMH. The changes described in the proposal do not impact the governance of the Exchange nor do they modify the ownership of the Corporation.

(C) *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (A) Significantly affect the protection of investors or the public interest; (B) impose any significant burden on competition; and (C) by its terms, become operative for 30 days from the date on which it was filed or such shorter time as the Commission

[5] The Exchange notes that such changes have already been filed in connection with corporate documents on-file with the Secretary of State of Delaware.

[6] 15 U.S.C. 78f(b).

may designate it has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and paragraph (f)(6) of Rule 19b–4 thereunder,[8] the Exchange has designated this rule filing as non-controversial. The Exchange has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (1) Necessary or appropriate in the public interest; (2) for the protection of investors; or (3) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the 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–BatsEDGA–2016–17 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–BatsEDGA–2016–17. 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–BatsEDGA–2016–17 and should be submitted on or before August 29, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–18700 Filed 8–5–16; 8:45 am]

BILLING CODE 8011–01–P

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4.

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32206; 812–14666]

American Independence Funds Trust, et al.; Notice of Application

August 3, 2016.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from section 15(a) of the Act and rule 18f–2 under the Act, as well as from certain disclosure requirements in rule 20a–1 under the Act, Item 19(a)(3) of Form N–1A, Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A under the Securities Exchange Act of 1934, and Sections 6–07(2)(a), (b), and (c) of Regulation S–X (''Disclosure Requirements''). The requested exemption would permit an investment adviser to hire and replace certain sub-advisers without shareholder approval and grant relief from the Disclosure Requirements as they relate to fees paid to the sub-advisers.

APPLICANTS: American Independence Funds Trust and Rx Funds Trust (each, a ''Trust'' and collectively, the ''Trusts''), each a Delaware statutory trust registered under the Act as an open-end management investment company with multiple series, and RiskX Investments, LLC, a Delaware limited liability company registered as an investment adviser under the Investment Advisers Act of 1940 (''RiskX Investments'' or the ''Adviser,'' and, collectively with the Trusts, the ''Applicants'').

FILING DATES: The application was filed June 30, 2016, and amended August 2, 2016 and August 2, 2016.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on August 24, 2016, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants: 1345 Avenue of the Americas, Second Floor, New York, NY 10105.

FOR FURTHER INFORMATION CONTACT: Steven I. Amchan, Senior Counsel, or David J. Marcinkus, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Summary of the Application

1. The Adviser will serve as the investment adviser to the Funds pursuant to an investment advisory agreement with each Trust (the ''Advisory Agreement'').[1] The Adviser

[1] Applicants request relief with respect to any existing and any future series of each Trust and any

Continued

will provide the Funds with continuous and comprehensive investment management services subject to the supervision of, and policies established by, each Fund's board of trustees (''Board''). The Advisory Agreement permits the Adviser, subject to the approval of the Board, to delegate to one or more sub-advisers (each, a ''Sub-Adviser'' and collectively, the ''Sub-Advisers'') the responsibility to provide the day-to-day portfolio investment management of each Fund, subject to the supervision and direction of the Adviser. The primary responsibility for managing the Funds will remain vested in the Adviser. The Adviser will hire, evaluate, allocate assets to and oversee the Sub-Advisers, including determining whether a Sub-Adviser should be terminated, at all times subject to the authority of the Board.

2. Applicants request an exemption to permit the Adviser, subject to Board approval, to hire certain Sub-Advisers pursuant to Sub-Advisory Agreements and materially amend existing Sub-Advisory Agreements without obtaining the shareholder approval required under section 15(a) of the Act and rule 18f–2 under the Act.[2] Applicants also seek an exemption from the Disclosure Requirements to permit a Fund to disclose (as both a dollar amount and a percentage of the Fund's net assets): (a) The aggregate fees paid to the Adviser and any Affiliated Sub-Adviser; and (b) the aggregate fees paid to Sub-Advisers other than Affiliated Sub-Advisers (collectively, ''Aggregate Fee Disclosure''). For any Fund that employs an Affiliated Sub-Adviser, the Fund will provide separate disclosure of any fees paid to the Affiliated Sub-Adviser.

3. Applicants agree that any order granting the requested relief will be subject to the terms and conditions stated in the Application. Such terms and conditions provide for, among other safeguards, appropriate disclosure to Fund shareholders and notification about sub-advisory changes and enhanced Board oversight to protect the interests of the Funds' shareholders.

4. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provisions of the Act, or any rule thereunder, if such relief is necessary or appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act. Applicants believe that the requested relief meets this standard because, as further explained in the Application, the Advisory Agreements will remain subject to shareholder approval, while the role of the Sub-Advisers is substantially similar to that of individual portfolio managers, so that requiring shareholder approval of Sub-Advisory Agreements would impose unnecessary delays and expenses on the Funds. Applicants believe that the requested relief from the Disclosure Requirements meets this standard because it will improve the Adviser's ability to negotiate fees paid to the Sub-Advisers that are more advantageous for the Funds.

For the Commission, by the Division of Investment Management, under delegated authority.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–18754 Filed 8–5–16; 8:45 am]

BILLING CODE 8011–01–P

other registered open-end management company or series thereof that: (a) Is advised by RiskX Investments or its successor or by a person controlling, controlled by, or under common control with RiskX Investments or its successor (each, also an ''Adviser''); (b) uses the manager of managers structure described in the application; and (c) complies with the terms and conditions of the application (any such series, a ''Fund'' and collectively, the ''Funds''). For purposes of the requested order, ''successor'' is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

[2] The requested relief will not extend to any Sub-Adviser, other than a ''Wholly-Owned Sub-Adviser'' (as defined in the application), that is an affiliated person, as defined in section 2(a)(3) of the Act, of a Fund or the Adviser, other than by reason of serving as a sub-adviser to one or more of the Funds (''Affiliated Sub-Adviser'').

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78454; File No. SR–BatsBZX–2016–46]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot Period for the Exchange's Supplemental Competitive Liquidity Provider Program

August 2, 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 July 28, 2016, Bats BZX Exchange, Inc. (''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The 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.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to extend the pilot period for the Exchange's Supplemental Competitive Liquidity Provider Program (the ''Program''), which is currently set to expire on July 28, 2016, for three months, to expire on October 28, 2016.

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

Background

On August 30, 2011, the Exchange received approval of rules applicable to the qualification, listing and delisting of securities of issuers on the Exchange.[3] More recently, the Exchange received approval to operate a pilot program that is designed to incentivize certain Market Makers [4] registered with the Exchange as ETP CLPs, as defined in Interpretation and Policy .03 to Rule 11.8, to enhance liquidity on the Exchange in certain ETPs [5] listed on the Exchange and thereby qualify to receive part of a daily rebate as part of the

[3] *See* Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR–BATS–2011–018).

[4] As defined in BZX Rules, the term ''Market Maker'' means a Member that acts a as a market maker pursuant to Chapter XI of BZX Rules.

[5] ETP is defined in Interpretation and Policy .03(b)(4) to Rule 11.8.

Program under Interpretation and Policy .03 to Rule 11.8.[6]

The Program was approved by the Commission on a pilot basis running one-year from the date of implementation.[7] The Commission approved the Program on July 28, 2014.[8] The Exchange implemented the Program on July 28, 2014 and the pilot period for the Program was originally scheduled to end on July 28, 2015 until it was extended to end on October 28, 2015,[9] later extended to January 28, 2016,[10] again extended to April 28, 2016,[11] and most recently extended to July 28, 2016.[12]

Proposal To Extend the Operation of the Program

The Exchange established the Program in order to enhance liquidity on the Exchange in certain ETPs listed on the Exchange (and thereby enhance the Exchange's ability to compete as a listing venue) by providing a mechanism by which ETP CLPs compete for part of a daily quoting incentive on the basis of providing the most aggressive quotes with the greatest amount of size. Such competition has the ability to reduce spreads, facilitate the price discovery process, and reduce costs for investors trading in such securities, thereby promoting capital formation and helping the Exchange to compete as a listing venue. The Exchange believes that extending the pilot is appropriate because the Exchange has prepared and is also planning to submit a proposal to make the Program permanent. As part of this proposal, the Exchange has also prepared a report analyzing the Program. As such, the Exchange believes that it is appropriate to extend the current operation of the Program for three months in order to provide enough time for the Program to continue operating while such proposal is under consideration by the Commission. Through this filing, the Exchange seeks to extend the current pilot period of the Program until October 28, 2016.

2. Statutory Basis

The Exchange believes that its proposal 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.[13] In particular, the Exchange believes the proposed change furthers the objectives of Section 6(b)(5) of the Act,[14] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. The Exchange believes that extending the pilot period for the Program is consistent with these principles because the Program is reasonably designed to enhance quote competition, improve liquidity in securities listed on the Exchange, support the quality of price discovery, promote market transparency, and increase competition for listings and trade executions, while reducing spreads and transaction costs in such securities. Maintaining and increasing liquidity in Exchange-listed securities will help raise investors' confidence in the fairness of the market and their transactions. The extension of the pilot period will allow Exchange to continue to operate the Program while its proposal to make the Program permanent is under consideration by the Commission.

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 extends an established pilot program for three months, thus allowing the Program to enhance competition in both the listings market and in competition for market makers. The Program will continue to promote competition in the listings market by providing issuers with a vehicle for paying the Exchange additional fees in exchange for incentivizing tighter spreads and deeper liquidity in listed securities and allow the Exchange to continue to compete with similar programs at Nasdaq Stock Market LLC[15] and NYSE Arca Equities, Inc.[16]

The Exchange also believes that extending the pilot program for an additional three months will allow the Program to continue to enhance competition among market participants by creating incentives for market makers to compete to make better quality markets. By continuing to require that market makers both meet the quoting requirements and also compete for the daily financial incentives, the quality of quotes on the Exchange will continue to improve. This, in turn, will attract more liquidity to the Exchange and further improve the quality of trading in exchange-listed securities participating in the Program, which will also act to bolster the Exchange's listing business.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from Members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) 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[17] and paragraph (f)(6) of Rule 19b–4 thereunder.[18]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative before 30 days from the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[19] the Commission may designate a shorter time if such action is consistent with the

[6] *See* Securities Exchange Act Release No. 72692 (July 28, 2014), 79 FR 44908 (August 1, 2014) (SR–BATS–2014–022) (''CLP Approval Order'').

[7] *See id* at 44909.

[8] *Id.*

[9] *See* Securities Exchange Act Release No. 75518 (July 24, 2015), 80 FR 45566 (July 30, 2015 (SR–BATS–2015–55).

[10] *See* Securities Exchange Act Release No. 76293 (October 28, 2015), 80 FR 67808 (November 3, 2015) (SR–BATS–2015–96).

[11] *See* Securities Exchange Act Release No. 77033 (February 2, 2016), 81 FR 6558 (February 8, 2016) (SR–BATS–2016–12).

[12] *See* Securities Exchange Act Release No. 77721 (April 27, 2016), 81 FR 26591 (May 3, 2016) (SR–BatsBZX–2016–11).

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] *See* Securities Exchange Act Release No. 69195 (March 20, 2013), 78 FR 18393 (March 26, 2013) (SR–NASDAQ–2012–137).

[16] *See* Securities Exchange Act Release No. 69335 (April 5, 2013), 78 FR 35340 (June 12, 2013) (SR–NYSEARCA–2013–34).

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[19] 17 CFR 240.19b–4(f)(6)(iii).

protection of investors and the public interest.

The Exchange has asked the Commission to waive the 30-day operative delay. The Exchange asserts that waiver of the operative delay will allow the Exchange to extend the Program prior to its expiration on July 28, 2016, which will ensure that the Program continues to operate uninterrupted while the Exchange and the Commission continue to analyze data regarding the Program. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing with the Commission.[20]

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 proposal is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–BatsBZX–2016–46 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–BatsBZX–2016–46. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–BatsBZX–2016–46 and should be submitted on or before August 29, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–18697 Filed 8–5–16; 8:45 am]

BILLING CODE 8011–01–P

[20] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78460; File No. SR–BatsEDGX–2016–36]

Self-Regulatory Organizations; Bats EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Reflect the Dissolution of One of the Exchange's Intermediate Holding Companies, Direct Edge Holdings LLC

August 2, 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 July 26, 2016, Bats 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 this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to reflect the dissolution of one of the Exchange's intermediate holding companies, Direct Edge Holdings LLC (''DEH''), on December 31, 2015, by: (i) Amending the bylaws of the Exchange's ultimate parent company, Bats Global Markets, Inc. (the ''Corporation''), to remove reference to DEH, as well as Bats Global Markets Holdings, an intermediate holding company wholly owned by the Corporation (''BGMH''), (ii) amending the bylaws of the Exchange to remove reference to DEH, (iii) deleting the DEH certificate of formation and operating agreement from the Exchange's rules, and (iv) amending the operating agreement of the Exchange's sole stockholder, Direct Edge LLC (''DE LLC''), to reflect that DE LLC's sole member is the Corporation rather than DEH and to make other related changes.

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

On December 17, 2015, DEH filed a certificate of cancellation with the State of Delaware, effective December 31,

2015. As a result, DEH was dissolved, its affairs wound up, and its certificate of formation and operating agreement were cancelled, each effective December 31, 2015. In connection with DEH's dissolution, the Corporation proposes to amend its bylaws on-file with the Commission to remove reference to DEH because the entity no longer exists. The Exchange also proposes to remove reference to BGMH because inclusion of the reference to BGMH is unnecessary. Specifically, the applicable provision relates to any entity in which the Corporation holds an interest and the text the Exchange proposes to eliminate is a parenthetical that was intended to provide examples, not an exhaustive list, of such entities.

Similarly, the Exchange intends to amend its bylaws to remove reference to DEH. Specifically, the Exchange proposes to remove references to DEH contained in Article XI, Section 2 of the bylaws, which prohibits members of the boards of affiliated entities from attending meetings related to the self-regulatory function of the Exchange.

Because DEH has been dissolved, the Exchange also proposes to delete the DEH certificate of formation and operating agreement from the Exchange's rules. Though the DEH certificate of formation did not have any information pertinent to the Exchange, the Exchange notes that the DEH operating agreement did contain certain provisions applicable to the Exchange's status as a self-regulatory organization. For example, Article X, Section 1 provided that DEH would not interfere with the Exchange's responsibilities under the Act and Article X, Section 2 provided that DEH would cooperate with the Exchange in furtherance of such responsibilities. These provisions and the others in the operating agreement of DEH related to the Exchange were designed to impose restrictions upon DEH for so long as DEH indirectly owned the Exchange or were intended to require cooperation by DEH to ensure that the Exchange could meet its regulatory obligations. Thus, while the dissolution of DEH and the proposed elimination of the operating agreement does remove some provisions applicable to the Exchange, there is no impact on the Exchange. The Exchange notes that each one of these provisions is duplicative of a provision included in the operating agreement of DE LLC. Also, the Exchange notes that the primary limitations upon the interference with the independence of the Exchange related to either ownership or governance are contained either in the organizational documents of Exchange or the Corporation, and not the organizational documents of any intermediate holding company.

Finally, DE LLC intends to amend and restate its operating agreement to reflect that DE LLC's sole member is the Corporation rather than DEH and include the contact information of the member. In connection with these changes, the Exchange also proposes to reflect the following changes to the operating agreement of DE LLC: (i) general language to reflect the amendment and restatement of the operating agreement; and (ii) restructuring of certain language related to DE LLC's formation. None of the proposed changed described above requires a filing with the State of Delaware.

The purpose of this rule filing is to amend the bylaws of the Corporation, the ultimate parent company of the Exchange, to amend the bylaws of the Exchange, and to amend and restate the operating agreement of DE LLC, the sole stockholder of the Exchange, each as described in this proposal.[5] The purpose of the rule filing is also to remove reference to the DEH certificate of formation and operating agreement, as neither document is still operative. Thus, the changes described herein only relate to references contained in the bylaws of the Corporation and the Exchange as well as the operating agreement of DE LLC, and do not impact the governance of the Exchange. The Exchange will continue to be governed by its existing certificate of incorporation and bylaws, as amended by this proposal. The stock in, and voting power of, the Exchange will continue to be directly and solely held by DE LLC, and the governance of the Exchange will continue under its existing structure.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and 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.[6] In particular, the proposal is consistent with Section 6(b)(1) of the Act, because it retains, without modification, the existing limitations on ownership and total voting power that currently exist and that are designed to prevent any stockholder from exercising undue control over the operation of the Exchange and to assure that the Exchange is able to carry out its regulatory obligations under the Act. Under the proposal, the Corporation is making certain administrative changes to the bylaws of the Corporation, the bylaws of the Exchange and the operating agreement of DE LLC. These changes, however, do not impact the governance of the Exchange nor do they modify the ownership of the Corporation.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes any burden on competition. As described above, the proposed rule change is simply to reflect the dissolution of DEH, including the deletion of the certificate of formation and operating agreement of DEH and all references to DEH in the governance documents of the Corporation, the Exchange, and DE LLC. The Exchange has also proposed to remove an unnecessary reference in the Corporation's bylaws to BGMH. The changes described in the proposal do not impact the governance of the Exchange nor do they modify the ownership of the Corporation.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (A) Significantly affect the protection of investors or the public interest; (B) impose any significant burden on competition; and (C) by its terms, become operative for 30 days from the date on which it was filed or such shorter time as the Commission may designate it has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and paragraph (f)(6) of Rule 19b–4 thereunder,[8] the Exchange has designated this rule filing as non-controversial. The Exchange has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such

[5] The Exchange notes that such changes have already been filed in connection with corporate documents on-file with the Secretary of State of Delaware.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4.

shorter time as designated by the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (1) Necessary or appropriate in the public interest; (2) for the protection of investors; or (3) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the 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–BatsEDGX–2016–36 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–BatsEDGX–2016–36. 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–BatsEDGX–2016–36 and should be submitted on or before August 29, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–18701 Filed 8–5–16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78461; File No. SR–C2–2016–015]

Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Adopting a Principles-Based Approach To Prohibit the Misuse of Material Nonpublic Information by Market-Makers and Designated Primary Market-Makers (''DPMs'')

August 2, 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 July 28, 2016, C2 Options Exchange, Incorporated (the ''Exchange'' or ''C2'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to delete Rules 8.9 and 8.21 related to information barriers. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to adopt a principles-based approach to prohibit the misuse of material, nonpublic information by Market-Makers and DPMs by deleting Rule 8.9 and Rule 8.21. In so doing, the Exchange would harmonize its rules related to the preventing the misuse of material, nonpublic information for every Trading Permit Holder (''TPH''). The Exchange believes that Rule 8.9 and Rule 8.21 are no longer necessary because all TPHs, including Market-Makers and DPMs, are subject to the Exchange's general principles-based requirements governing the protection against misuse of material, nonpublic information, pursuant to Chapter 4 and incorporated therin [sic] CBOE Rule 4.18[3] (Prevention of the Misuse of Material, Nonpublic Information), which obviates the need for separately prescribed requirements for a subset of market participants on the Exchange.

Background

Pursuant to Rule 8.1, TPHs registered as Market-Makers have certain rights and bear certain responsibilities beyond those of other TPHs. All Market-Makers are subject to the requirements of Rule 8.5, which sets forth the obligations of Market-Makers, including providing continuous electronic quotes.

Rule 8.17 outlines the obligations of DPMs, which must fulfill a number of increased obligations in addition to the Market-Maker obligations of Rule 8.5, including providing continuous

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Chapter 4 of the CBOE rulebook has been incorporated into Chapter 4 of the C2 Rules. CBOE Rule 4.18, as incorporated in the C2 Rules, will hereafter be referenced as ''Rule 4.18.''

electronic quotes in a larger percentage of series.[4]

Pursuant to Rule 8.19, the Exchange may establish participation entitlements for DPMs appointed pursuant to the aforementioned Rules. DPMs must meet specific obligations prior to being awarded a participation entitlements.

All Market-Makers and DPMs have access to the same information in the Book that is available to all other market participants. Moreover, none of the Exchange's Market-Makers have agency obligations to the Book.

Despite the fact that Market-Makers and DPMs have access to the same trading information as all other market participants on the Exchange, the Exchange has distinct rules governing how Market-Makers and DPMs may operate. Rule 8.9 states that a Market-Maker shall maintain information barriers that are reasonably designed to prevent the misuse of material, nonpublic information with any affiliates that may conduct a brokerage business in option classes allocated to the Market-maker or that may act as a specialist or market-maker in any security underlying options allocated to the Market-Maker. Rule 8.21 states that a DPM shall maintain information barriers that are reasonably designed to prevent the misuse of material, nonpublic information with any affiliates that may conduct a brokerage business in option classes allocated to the DPM or act as a specialist or market-maker in any security underlying options allocated to the DPM. Rule 8.21 also requires a DPM provide its information barriers to the Exchange and obtain prior written approval.

Proposed Rule Change

The Exchange believes that Rule 4.18 governing the misuse of material, nonpublic information provides for an appropriate, principles-based approach to prevent the type of market abuses Rules 8.9 and 8.21 are designed to address. Specifically, Rule 4.18 requires every TPH to establish, maintain and enforce written policies and procedures reasonably designed, taking into consideration the nature of such TPH's business, to prevent the misuse, in violation of the Securities Exchange Act of 1934 (the ''Act'') and Exchange Rules, of material, nonpublic information by such TPH or persons associated with such TPH. For the purposes of Rule 4.18, conduct constituting the misuse of material, nonpublic information in violation of the Act and Exchange Rules includes, but is not limited to, the following:

(a) Trading in any securities issued by a corporation, partnership, Trust Issued Receipts or Units (as defined in Exchange Rules) or a trust or similar entities, or in any related securities or related options or other derivative securities, or in any related non-U.S. currency options, futures or options on futures on such currency, or any other derivatives based on such currency, or in any related commodity, related commodity futures or options on commodity futures or in any related commodity derivatives, while in possession of material, nonpublic information concerning that corporation, partnership, Trust Issued Receipts, or those Units, or that trust or similar entities;

(b) Trading in an underlying security or related options or other derivative securities, or in any related non-U.S. currency, non-U.S. currency options, futures or options on futures on such currency, or in any related commodity, related commodity futures or options on commodity futures or any other related commodities derivatives, or any other derivatives based on such currency while in possession of material nonpublic information concerning imminent transactions in the above; and

(c) Disclosing to another person or entity any material, nonpublic information involving a corporation, partnership, Trust Issued Receipts, or Units or a trust or similar entities whose shares are publicly traded or an imminent transactions in an underlying security or related securities or in the underlying non-U.S. currency of any related non-U.S. currency options, futures or options on futures on such currency, or any other derivatives based on such currency, or in any related commodity, related commodity futures or options on commodity futures or any other related commodity derivatives, for the purpose of facilitating the possible misuse of such material, nonpublic information.

Because Market-Makers and DPMs are already subject to the requirements of Rule 4.18, the Exchange does not believe that it is necessary to require all Market-Makers and DPMs to explicitly maintain information barriers. Deleting Rules 8.9 and 8.21 would provide Market-Makers and DPMs with the flexibility to adapt their policies and procedures as appropriate to reflect changes to their business model, business activities, or the securities market in a manner similar to how other TPHs on the Exchange currently operate consistent with Rule 4.18.

Neither the obligations nor the entitlements associated with Market-Makers and DPMs provide different or greater access to nonpublic information than any other market participant on the Exchange. Specifically, neither Market-Makers nor DPMs on the Exchange have access to trading information provided by the Exchange, either at, or prior to, the point of execution, that is not made available to all other market participants on the Exchange in a similar manner. Further, as noted above, Market-Makers and DPMs on the Exchange do not have any agency responsibilities for orders in the Book. Accordingly, because Market-Makers and DPMs do not have any trading advantages at the Exchange due to their market roles, the Exchange believes that they should be subject to the same rules regarding the prevention of the misuse of material, nonpublic information, specifically Rule 4.18.[5]

The Exchange notes that its proposed approach to use a principles-based approach to protecting against the misuse of material nonpublic information for all of its registered Market-Makers is consistent with recently filed rule changes for the Chicago Board Options Exchange, Incorporated (''CBOE''), NYSE MKT, LLC on behalf of NYSE Amex Options, International Securities Exchange, LLC (''ISE''), BOX Options Exchange, LLC (''BOX''), BATS Exchange, Inc. (''BATS'') on behalf of BATS Options Market (''BATS Options''), NASDAQ OMX PHLX, LLC (''PHLX''), and NASDAQ BX, Inc. (''BX Options'')[6] The

[4] *Compare* Rule 8.17(a)(1) (''[Each DPM shall] provide continuous electronic quotes . . . in at least the lesser of 99% of the non-adjusted options series (as defined in Rule 8.5(a)(1)) or 100% of the non-adjusted option series minus one call-put pair . . .'') *with* Rule 8.5(a)(1) (''During trading hours a Market-Maker must maintain a continuous two-sided market in 60% of the non-adjusted option series of each registered class that have a time to expiration of less than nine months.'').

[5] The Exchange notes that by deleting Rules 8.9 and 8.21, the Exchange would no longer require information barriers for Market-Makers or DPMs or, with respect to DPMs, require pre-approval of any information barriers that a DPM would erect for purposes of protecting against the misuse of material nonpublic information. However, information barriers of new entrants, including new Market-Makers and DPMs, would be subject to review as part of a new firm application. Moreover, the policies and procedures of Market-Makers and DPMs, including those relating to information barriers, would be subject to review by FINRA, on behalf of the Exchange, pursuant to a Regulatory Services Agreement.

[6] *See* Securities Exchange Act Release Nos. 77081 (February 8, 2016), 81 FR 7609 (February 12, 2016) (SR–CBOE–2016–007) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Adopting a Principles-Based Approach to Prohibit the Misuse of Material Nonpublic Information by Designated Primary Market-Makers (''DPMs'') and Lead Market-Makers (''LMM's'')); 75432 (July 13, 2015), 80 FR 42597 (July 17, 2015) (Order Approving Adopting a Principles-Based Approach to Prohibit the Misuse of Material Nonpublic Information by Specialists and e-Specialists by Deleting Rule 927.3NY and Section

Continued

proposed approach is also consistent with approved rule changes for NYSE Arca Equities Inc. (''NYSE Arca''), BATS, and New York Stock Exchange, LLC (''NYSE'') rules governing cash equity Market-Makers on those respective exchanges.[7] Except for prescribed rules relating to floor-based designated Market-Makers on the NYSE, who have access to specified nonpublic trading information, each of these exchanges have moved to a principles-based approach to protecting against the misuse of material, nonpublic information. In connection with approving those rule changes, the Securities and Exchange Commission (the ''Commission'') found that, with adequate oversite [sic] by the exchanges of their members, eliminating redundant information barrier requirements should not reduce the effectiveness of exchange rules requiring its members or participants to establish and maintain systems to supervise the activities of its members, including written procedures reasonably designed to ensure compliance with applicable federal securities law and regulations, and with the rules of the applicable exchange.[8]

The Exchange notes that even with this proposed rule change, pursuant to Rule 4.18, a Market-Maker or DPM would still be obligated to ensure that its policies and procedures reflect the current state of its business and continue to be reasonably designed to prevent the misuse of material, nonpublic information. While information barriers would not specifically be required under the proposal, Rule 4.18 already requires that a TPH consider the nature of the TPH's business in structuring its policies and procedures, which may dictate that an information barrier or a functional separation be part of the appropriate set of policies and procedures that would be reasonably designed to achieve compliance with applicable securities law and regulations, and with applicable Exchange rules.

The Exchange is not proposing to change what is considered to be material, nonpublic information and, thus, does not expect there to be any changes to the types of information that an affiliated brokerage business of a Market-Maker or DPM could share with such Market-Maker or DPM. In that regard, the proposed rule change will not permit the brokerage unit of a TPH firm to have access to any nonpublic order or quote information of an affiliated Market-Maker or DPM, including hidden or undisplayed orders and quotes on the Exchange. TPHs do not expect to receive any additional order or quote information as a result of this proposed rule change.

Further, the Exchange does not believe that there will be any material change to TPH information barriers as a result of removal of the Exchange's pre-approval requirements for DPMs. In fact, the Exchange anticipates that eliminating the pre-approval requirement should facilitate implementation of changes to TPH information barriers as necessary to protect against the misuse of material, nonpublic information. The Exchange also suggests that the pre-approval requirement is unnecessary because DPMs do not have agency responsibilities to the Book. However, information barriers of new entrants would be subject to review as part of a new firm application. Moreover, the policies and procedures of Market-Makers and DPMs, including those relating to information barriers, would be subject to review by FINRA, on behalf of the Exchange, pursuant to a Regulatory Services Agreement.

The Exchange further notes that under Rule 4.18, a TPH would be able to provide for its options Market-Makers or DPMs, as applicable, to be structured with its equities and customer-facing businesses, provided that any such structuring would be done in a manner reasonably designed to protect against the misuse of material, nonpublic information. For example, pursuant to Rule 4.18, a Market-Maker or DPM on the Exchange could be in the same independent trading unit, a defined in Rule 200(f) of Regulation SHO,[9] as an equities Market-Maker and other trading desks within the firm, including options trading desks, so that the firm could share post-trade information to better manage its risk across related securities. The Exchange believes it is appropriate, and consistent with Rule 4.18 and Section 15(g) of the Act [10] for a firm to share options position and related hedging position information (*e.g.,* equities, futures, and foreign currency) within a firm to better manage risk on a firm-wide basis. The Exchange notes, however, that if so structured, a firm would need to have appropriate policies and procedures, including information barriers as applicable, to protect against the misuse of material nonpublic information, and specifically customer information consistent with Rule 4.18. The Exchange further notes that federal rules supersede Exchange rules in the event of any conflicts regarding the misuse of material nonpublic information.

The Exchange believes that the proposed reliance on the principles-based Rule 4.18 would ensure that a TPH that operates a Market-Maker or DPM would be required to protect against the misuse of any material nonpublic information. As noted above, Rule 4.18 already requires that firms refrain from trading while in possession of material nonpublic information concerning imminent transactions in a security or related product. The Exchange believes that moving to a principles-based approach based on Rule 4.18 would still provide TPHs operating Market-Makers or DPMs with appropriate tools to better manage risk across a firm, including integrating options positions with other positions of the firm or, as applicable, by the respective independent trading unit. Specifically, the Exchange believes that it is appropriate for risk management purposes for a TPH operating a Market-Maker or DPM to be able to consider

(f) of Rule 927.5NY); 75792 (August 31, 2015), 80 FR 53606 (September 4, 2015) (SR–ISE–2015–26) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Adopting a Principles-Based Approach to Prohibit the Misuse of Material, Non-public Information by Market Makers by Deleting Rule 810); 75916 (September 14, 2015), 80 FR 56503 (September 18, 2015) (SR–BOX–2015–31) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Adopt a Principles-based Approach to Prohibit the Misuse of Material Nonpublic Information by Market Makers); 76327 (November 2, 2015), 80 FR 68884 (November 6, 2015) (SR–BATS–2015–093) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Delete Rule 22.10, Limitations on Dealings); 76687 (December 18, 2015), 80 FR 80403 (December 24, 2015) (SR–PHLX–2015–85) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Delete Sections (e) Through (h) of Exchange Rule 1020, Registration and Functions of Options Specialists); 77461 (March 28, 2016), 81 FR 18907 (April 1, 2016) (SR–BX–2016–018) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Delete From the Exchange's Rulebook Section 10, Limitations on Dealings, of Chapter VII, Market Participants).

[7] *See* Securities Exchange Act Release Nos. 60604 (Sept. 2, 2009), 76 FR 46272 (Sept. 8, 2009) (SR–NYSEArca–2009–78) (Order approving elimination of NYSE Arca rule that required market makers to establish and maintain specifically prescribed information barriers, including discussion of NYSE Arca and Nasdaq rules) (''Arca Approval Order''); 61574 (Feb. 23, 2010), 75 FR 9455 (Mar. 2, 2010) (SR–BATS–2010–003) (Order approving amendments to BATS Rule 5.5 to move to a principles-based approach to protecting against the misuse of material, nonpublic information, and noting that the proposed change is consistent with the approaches of NYSE Arca and Nasdaq) (''BATS Approval Order''); and 72534 (July 3, 2014), 79 FR 39440 (July 10, 2014) (SR–NYSE–2014–12) (Order approving amendments to NYSE Rule 98 governing designated market makers to move to a principles-based approach to prohibit the misuse of material nonpublic information) (''NYSE Approval Order'').

[8] *See, e.g.,* BATS Approval Order, *supra* note 4 at 9458.

[9] 17 CFR part 242.200(f).

[10] 15 U.S.C. 78o(g).

both Market-Maker or DPM traded-positions for the purposes of calculating net positions consistent with Rule 200 of Regulation SHO,[11] calculating intra-day net capital positions, and managing risk both generally as well as in compliance with Rule 15c3–5 under the Act (the ''Market Access Rule'').[12] The Exchange notes that any risk management operations would need to operate consistent with the requirement to protect against the misuse of material nonpublic information.

The Exchange further notes that if options Market-Makers or DPMs are integrated with other Market-Making operations, they would be subject to existing rules that prohibit TPHs from disadvantaging their customers or other market participants by improperly capitalizing of a TPH organization's access to the receipt of material nonpublic information. As such, a TPH organization that integrates its options Market-Making or DPM operations together with equity Market-Making, would need to protect customer information consistent with existing obligations to protect such information. The Exchange has rules prohibiting TPHs from disadvantaging their customers or other market participants by improperly capitalizing on the TPH's access to or receipt of material nonpublic information. For example, Rule 4.24(e) requires Each TPH shall establish, maintain, and enforce written supervisory procedures reasonably designed to prevent and detect violations of applicable securities laws and regulations, and applicable Exchange rules. Additionally Rule 6.9(e) prevents a TPH or person associated with a TPH, who has knowledge of all material terms and conditions of an original order and a solicited order, including a facilitation order, to enter, based on such knowledge, an order to buy or sell an option of the same class as an option that is the subject of the original order, or an order to buy or sell the security underlying such class, or an order to buy or sell any related instrument unless certain circumstances are met.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[13] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[14] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[15] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market by adopting a principles-based approach to permit a TPH operating a Market-Maker or DPM to maintain and enforce policies and procedures to, among other things, prohibit the misuse of material nonpublic information. The proposed rule change would further eliminate restrictions on how a TPH structures its Market-Maker or DPM operations. The Exchange notes that the proposed rule change is based on an approved rule of the Exchange to which Market-Makers and DPMs are already subject (Rule 4.18) and harmonizes the rules governing Market-Makers, DPMs, and other market participants. Moreover, TPHs operating Market-Makers and DPMs would continue to be subject to federal and Exchange requirements for protecting material nonpublic order information.[16] The Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market because it would harmonize the Exchange's approach to protecting against the misuse of material nonpublic information and no longer subject Market-Makers and DPMs to redundant requirements. The Exchange does not believe that the existing requirements applicable to Market-Makers and DPMs are narrowly tailored to their respective roles because neither market participant has access to Exchange trading information in a manner different from any other market participant on the Exchange and they do not have agency responsibilities to the Book.

The Exchange further believes the proposal is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade because existing rules make clear to all TPHs the type of conduct that is prohibited by the Exchange. While the proposal eliminates certain requirements relating to the misuse of material nonpublic information, Market-Makers, DPMs and all other TPHs would remain subject to existing Exchange Rules requiring them to establish and maintain systems to supervise their activities, and to create, implement, and maintain written procedures that are reasonably designed to comply with applicable securities laws and Exchange Rules, including the prohibition on the misuse of material nonpublic information.

The Exchange notes that the proposed rule change would still require that TPHs operating Market-Makers and DPMs maintain and enforce policies and procedures designed to ensure compliance with applicable federal securities laws and regulations and with Exchange Rules. Even thought there would no longer be pre-approval of DPM information barriers, both Market-Maker and DPM written policies and procedures would continue to be subject to oversight by the Exchange and therefore the elimination of the pre-approval requirements should not reduce the effectiveness of the Exchange rules to protect against the misuse of material nonpublic information. Market-Makers and DPMs will be able to utilize a flexible, principles-based approach to modify their policies and procedures as appropriate to reflect changes to their business model, business activities, or to the securities market itself. Moreover the Exchange notes that a TPH's business model or business activities may dictate that an information barrier or functional separation be part of the appropriate set of policies and procedures that would be reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable Exchange Rules. The Exchange therefore believes that the proposed rule change will maintain the existing protection of investors and the public interest that is currently applicable to Market-Makers and DPMs, while at the same time removing impediments to and perfecting a free and open market by moving to a principles-based approach to protect against the misuse of material nonpublic information.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not

[11] 17 CFR part 242.200.

[12] 17 CFR part 240.15c3–5.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] *Id.*

[16] *See* 15 U.S.C. 78o(g) and Rule 4.18.

necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes that the proposal will enhance competition by allowing Market-Makers and DPMs to comply with applicable Exchange Rules in a manner best suited to their business models, business activities and the securities markets, thus reducing regulatory burdens while still ensuring compliance with applicable securities laws and regulations and Exchange rules. The Exchange believes that the proposal will foster a fair and orderly marketplace without being overly burdensome upon Market-Makers and DPMs.

Moreover, the Exchange believes that the proposed rule change would eliminate a burden on competition for TPHs that currently exists as a result of disparate rule treatment between the options and equities markets regarding how to protect against the misuse of material, nonpublic information. For those TPHs that are also members of equities exchanges, their respective equity Market-Maker operations are now subject to a principles-based approach to protecting against the misuse of material nonpublic information. The Exchange believes it would remove a burden on competition to enable TPHs to similarly apply a principles-based approach to protecting against the misuse of material nonpublic information in the options space. To this end, the Exchange notes that Rule 4.18 still requires a TPH, which operates as a Market-Maker or DPM on the Exchange, to evaluate its business to assure that its policies and procedures are reasonably designed to protect against the misuse of material, nonpublic information. However, with this proposed rule change, a TPH that trades equities and options could look at its firm more holistically to structure its operations in a manner that provides it with better tools to manage risks across multiple security classes, while at the same time protecting against the misuse of material nonpublic information.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[17]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. Waiver of the 30-day operative delay would help facilitate the harmonization of information barrier rules across options exchanges. The Exchange represents that Exchange rules still require a Market Maker to evaluate its business to assure that its policies and procedures are reasonably designed to protect against the misuse of material nonpublic information. Further, the Exchange states that the proposed rule change is designed to provide more flexibility to market participants, while not decreasing the protections against the misuse of material, non-public information. Based on the foregoing, the Commission believes the waiver of the operative delay is consistent with the protection of investors and the public interest.[18] The Commission hereby grants the waiver and designates the proposal operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

[17] In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[18] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–C2–2016–015 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–C2–2016–015. 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–C2–2016–015 and should be submitted on or before August 29, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–18702 Filed 8–5–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78456; File No. SR–BatsBYX–2016–19]

Self-Regulatory Organizations; Bats BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Reflect the Dissolution of One of the Exchange's Intermediate Holding Companies, Direct Edge Holdings LLC

August 2, 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 July 25, 2016, Bats BYX Exchange, Inc. (the ''Exchange'' or ''BYX'') 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 this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to reflect the dissolution of one of the Exchange's intermediate holding companies, Direct Edge Holdings LLC (''DEH''), on December 31, 2015, by amending the bylaws of the Exchange's ultimate parent company, Bats Global Markets, Inc. (the ''Corporation''), to remove reference to DEH, as well as Bats Global Markets Holdings, an intermediate holding company wholly owned by the Corporation (''BGMH'').

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

On December 17, 2015, DEH filed a certificate of cancellation with the State of Delaware, effective December 31, 2015. As a result, DEH was dissolved, its affairs wound up, and its certificate of formation and operating agreement were cancelled, each effective December 31, 2015. In connection with DEH's dissolution, the Corporation proposes to amend its bylaws on-file with the Commission to remove reference to DEH because the entity no longer exists. The Exchange also proposes to remove reference to BGMH because inclusion of the reference to BGMH is unnecessary. Specifically, the applicable provision relates to any entity in which the Corporation holds an interest and the text the Exchange proposes to eliminate is a parenthetical that was intended to provide examples, not an exhaustive list, of such entities.

The purpose of this rule filing is to amend the bylaws of the Corporation, the ultimate parent company of the Exchange, as described above.[5] Thus, the changes described herein only relate to references contained in the bylaws of the Corporation, and do not impact the governance of the Exchange. The Exchange will continue to be governed by its existing certificate of incorporation and bylaws.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and 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.[6] In particular, the proposal is consistent with Section 6(b)(1) of the Act, because it retains, without modification, the existing limitations on ownership and total voting power that currently exist and that are designed to prevent any stockholder from exercising undue control over the operation of the Exchange and to assure that the Exchange is able to carry out its regulatory obligations under the Act. Under the proposal, the Corporation is making certain administrative changes to the bylaws of the Corporation. These changes, however, do not impact the governance of the Exchange nor do they modify the ownership of the Corporation.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes any burden on competition. As described above, the proposed rule change is simply to reflect the dissolution of DEH and to remove an unnecessary reference in the Corporation's bylaws to BGMH. These changes do not impact the governance of the Exchange nor do they modify the ownership of the Corporation.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (A) significantly affect the protection of investors or the public interest; (B) impose any significant burden on competition; and (C) by its terms, become operative for 30 days from the date on which it was filed or such shorter time as the Commission may designate it has become effective pursuant to Section 19(b)(3)(A) of the Act [7] and paragraph (f)(6) of Rule 19b–4 thereunder,[8] the Exchange has designated this rule filing as non-controversial. The Exchange has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

At any time within 60 days of the filing of the proposed rule change, the

[19] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] The Exchange notes that such change has already been filed by the Corporation in connection with its bylaws on-file with the Secretary of State of Delaware.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4.

Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (1) Necessary or appropriate in the public interest; (2) for the protection of investors; or (3) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the 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–BatsBYX–2016–19 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–BatsBYX–2016–19. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of 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–BatsBYX–2016–19 and should be submitted on or before August 29, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–18699 Filed 8–5–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78455; File No. SR–BatsBZX–2016–43]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Reflect the Dissolution of One of the Exchange's Intermediate Holding Companies, Direct Edge Holdings LLC

August 2, 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 July 25, 2016, Bats BZX 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 this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to reflect the dissolution of one of the Exchange's intermediate holding companies, Direct Edge Holdings LLC (''DEH''), on December 31, 2015, by amending the bylaws of the Exchange's ultimate parent company, Bats Global Markets, Inc. (the ''Corporation''), to remove reference to DEH, as well as Bats Global Markets Holdings, an intermediate holding company wholly owned by the Corporation (''BGMH'').

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

On December 17, 2015, DEH filed a certificate of cancellation with the State of Delaware, effective December 31, 2015. As a result, DEH was dissolved, its affairs wound up, and its certificate of formation and operating agreement were cancelled, each effective December 31, 2015. In connection with DEH's dissolution, the Corporation proposes to amend its bylaws on-file with the Commission to remove reference to DEH because the entity no longer exists. The Exchange also proposes to remove reference to BGMH because inclusion of the reference to BGMH is unnecessary. Specifically, the applicable provision relates to any entity in which the Corporation holds an interest and the text the Exchange proposes to eliminate is a parenthetical that was intended to provide examples, not an exhaustive list, of such entities.

The purpose of this rule filing is to amend the bylaws of the Corporation, the ultimate parent company of the Exchange, as described above.[5] Thus, the changes described herein only relate to references contained in the bylaws of the Corporation, and do not impact the governance of the Exchange. The Exchange will continue to be governed by its existing certificate of incorporation and bylaws.

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] The Exchange notes that such change has already been filed by the Corporation in connection with its bylaws on-file with the Secretary of State of Delaware.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and 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.[6] In particular, the proposal is consistent with Section 6(b)(1) of the Act, because it retains, without modification, the existing limitations on ownership and total voting power that currently exist and that are designed to prevent any stockholder from exercising undue control over the operation of the Exchange and to assure that the Exchange is able to carry out its regulatory obligations under the Act. Under the proposal, the Corporation is making certain administrative changes to the bylaws of the Corporation. These changes, however, do not impact the governance of the Exchange nor do they modify the ownership of the Corporation.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes any burden on competition. As described above, the proposed rule change is simply to reflect the dissolution of DEH and to remove an unnecessary reference in the Corporation's bylaws to BGMH. These changes do not impact the governance of the Exchange nor do they modify the ownership of the Corporation.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (A) Significantly affect the protection of investors or the public interest; (B) impose any significant burden on competition; and (C) by its terms, become operative for 30 days from the date on which it was filed or such shorter time as the Commission may designate it has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and paragraph (f)(6) of Rule 19b–4 thereunder,[8] the Exchange has designated this rule filing as non-controversial. The Exchange has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (1) Necessary or appropriate in the public interest; (2) for the protection of investors; or (3) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the 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–BatsBZX–2016–43 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–BatsBZX–2016–43. 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–BatsBZX–2016–43 and should be submitted on or before August 29, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–18698 Filed 8–5–16; 8:45 am]

BILLING CODE 8011–01–P

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4.

[9] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2016–0218]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA).

ACTION: Notice of applications for exemptions; request for comments.

SUMMARY: FMCSA announces receipt of applications from 46 individuals for exemption from the prohibition against persons with insulin-treated diabetes mellitus (ITDM) operating commercial motor vehicles (CMVs) in interstate commerce. If granted, the exemptions would enable these individuals with ITDM to operate CMVs in interstate commerce.

DATES: Comments must be received on or before September 7, 2016.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2016–0218 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200

New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

• *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

• *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–113, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. The 46 individuals listed in this notice have recently requested such an exemption from the diabetes prohibition in 49 CFR 391.41(b)(3), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

II. Qualifications of Applicants

Robert C. Bartleson

Mr. Bartleson, 58, has had ITDM since 2016. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Bartleson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Bartleson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Wisconsin.

Jeffrey H. Blankenhorn

Mr. Blankenhorn, 51, has had ITDM since 2015. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Blankenhorn understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Blankenhorn meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from Oregon.

Melvin J. Bowers

Mr. Bowers, 69, has had ITDM since 2014. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Bowers understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Bowers meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from South Carolina.

Howard A. Cambridge

Mr. Cambridge, 55, has had ITDM since 2016. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Cambridge understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Cambridge meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Donald J. Charette

Mr. Charette, 71, has had ITDM since 2014. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Charette understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Charette meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Connecticut.

Robert C. Davis

Mr. Davis, 61, has had ITDM since 2013. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Davis understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Davis meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Matthew P. Delaney

Mr. Delaney, 30, has had ITDM since 2015. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Delaney understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Delaney meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Massachusetts.

Scot D. Dragon

Mr. Dragon, 56, has had ITDM since 2013. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Dragon understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Dragon meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Connecticut.

Patrick J. Flynn

Mr. Flynn, 32, has had ITDM since 2012. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Flynn understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Flynn meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Iowa.

Tyson E. Frazier

Mr. Frazier, 34, has had ITDM since 2010. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Frazier understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Frazier meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from New Hampshire.

Christopher G. Furlong

Mr. Furlong, 55, has had ITDM since 2013. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Furlong understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Furlong meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from Tennessee.

Austin G. Granby

Mr. Granby, 22, has had ITDM since 2013. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Granby understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Granby meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from Illinois.

Charles R. Hurston

Mr. Hurston, 55, has had ITDM since 2014. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hurston understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hurston meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Louisiana.

James E. Ingles

Mr. Ingles, 69, has had ITDM since 2007. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Ingles understands diabetes management and monitoring, has stable control of his diabetes using

insulin, and is able to drive a CMV safely. Mr. Ingles meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from Kentucky.

Lovie L. Ivory

Mr. Ivory, 65, has had ITDM since 2015. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Ivory understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Ivory meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from Alabama.

Rodrigo Jackson

Mr. Jackson, 46, has had ITDM since 2015. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Jackson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Jackson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from Texas.

Keith L. Jaynes

Mr. Jaynes, 37, has had ITDM since 2016. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Jaynes understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Jaynes meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Maine.

James J. Jopp

Mr. Jopp, 53, has had ITDM since 2016. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Jopp understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Jopp meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

Evan D. Keese

Mr. Keese, 32, has had ITDM since 2000. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Keese understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Keese meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from Tennessee.

Michael J. Kelly

Mr. Kelly, 39, has had ITDM since 2010. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Kelly understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Kelly meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from New York.

Mark A. Lewis

Mr. Lewis, 59, has had ITDM since 2012. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Lewis understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lewis meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from South Dakota.

Mitchell R. Loge

Mr. Loge, 28, has had ITDM since 2011. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Loge understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Loge meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from Colorado.

Lloyd I. Lynn

Mr. Lynn, 69, has had ITDM since 2011. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in

the last 5 years. His endocrinologist certifies that Mr. Lynn understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lynn meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class C CDL from Iowa.

Vincent Marino

Mr. Marino, 57, has had ITDM since 2013. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Marino understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Marino meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from West Virginia.

Pedro Mata, Jr.

Mr. Mata, 43, has had ITDM since 2011. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Mata understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Mata meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he has stable nonproliferative diabetic retinopathy. He holds a CDL from Michigan.

Dean A. McCoy

Mr. McCoy, 61, has had ITDM since 2013. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. McCoy understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. McCoy meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Iowa.

Bruce A. Miller

Mr. Miller, 57, has had ITDM since 2015. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Miller understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Miller meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Iowa.

William C. Mirabello, III

Mr. Mirabello, 48, has had ITDM since 2012. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Mirabello understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Mirabello meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from Maryland.

Eric J. O'Neal

Mr. O'Neal, 43, has had ITDM since 2015. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. O'Neal understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. O'Neal meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from Maryland.

Eugene E. Patterson, III

Mr. Patterson, 46, has had ITDM since 2008. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Patterson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Patterson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Texas.

Luis A. Santiago

Mr. Santiago, 47, has had ITDM since 2015. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Santiago understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Santiago meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from Connecticut.

Connor J. Sarmiento

Mr. Sarmiento, 22, has had ITDM since 2008. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of

consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Sarmiento understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Sarmiento meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from Montana.

Michael G. Schleining

Mr. Schleining, 54, has had ITDM since 2013. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Schleining understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Schleining meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Washington.

Ryan A. Scopino

Mr. Scopino, 23, has had ITDM since 2014. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Scopino understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Scopino meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from Maine.

Robert W. Shafer

Mr. Shafer, 67, has had ITDM since 2016. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Shafer understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Shafer meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from South Dakota.

Francisco Simental, Jr.

Mr. Simental, 41, has had ITDM since 2012. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Simental understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Simental meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Texas.

Ronald C. Snide

Mr. Snide, 29, has had ITDM since 2003. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Snide understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Snide meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from New York.

Terry J. Southards

Mr. Southards, 59, has had ITDM since 2015. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Southards understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Southards meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Kansas.

Timothy T. Stanton

Mr. Stanton, 47, has had ITDM since 2014. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Stanton understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Stanton meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from Minnesota.

Eric W. Thomason

Mr. Thomason, 44, has had ITDM since 2012. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Thomason understands diabetes management and monitoring, has stable control of his diabetes using

insulin, and is able to drive a CMV safely. Mr. Thomason meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Kansas.

Grady R. Thompson

Mr. Thompson, 34, has had ITDM since 1992. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Thompson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Thompson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Oklahoma.

Glenn M. Turley

Mr. Turley, 63, has had ITDM since 2009. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Turley understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Turley meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from West Virginia.

John V. Wallace

Mr. Wallace, 47, has had ITDM since 2006. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Wallace understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wallace meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from Massachusetts.

Randy R. Wallace

Mr. Wallace, 56, has had ITDM since 2010. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Wallace understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wallace meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from Missouri.

Merle L. Weyer

Mr. Weyer, 42, has had ITDM since 2012. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Weyer understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Weyer meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from South Dakota.

Norman D. Zamarche

Mr. Zamarche, 55, has had ITDM since 2012. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Zamarche understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Zamarche meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from Utah.

III. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the date section of the notice.

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441) [1]. The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305).

Section 4129 requires: (1) Elimination of the requirement for 3 years of experience operating CMVs while being treated with insulin; and (2) establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established by the September 3, 2003 notice. FMCSA discontinued use of the 3-year driving experience and fulfilled the requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 U.S.C. 31136(e).

Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of limited operating, monitoring and medical requirements that are deemed medically necessary.

[1] Section 4129(a) refers to the 2003 notice as a ''final rule.'' However, the 2003 notice did not issue a ''final rule'' but did establish the procedures and standards for issuing exemptions for drivers with ITDM.

The FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003 notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003 notice, except as modified by the notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

IV. Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2016–0218 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period. FMCSA may issue a final determination at any time after the close of the comment period.

V. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2016–0218 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to this notice.

Issued on: July 27, 2016.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2016–18734 Filed 8–5–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2016–0175]

Qualification of Drivers; Exemption Applications; Implantable Cardioverter Defibrillators

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemption; request for comments.

SUMMARY: FMCSA announces receipt of applications from eleven individuals for exemptions from the rules prohibiting operation of a commercial motor vehicle (CMV) by persons with a current clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency, thrombosis, or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse, or congestive heart failure. If granted, the exemptions would enable these individuals to operate CMVs for up to two years in interstate commerce.

DATES: Comments must be received on or before September 7, 2016.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2016–0175 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket ID for this Notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov,* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–113, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations (FMCSRs) for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the two-year period. The eleven individuals listed in this notice have requested an exemption from 49 CFR 391.41(b)(4), which applies to drivers who operates CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

The physical qualification standard found in 49 CFR 391.41(b)(4) states that a person is physically qualified to drive a CMV if that person

> Has no current clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency, thrombosis, or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse, or congestive cardiac failure.

In addition to the regulations, FMCSA has published advisory criteria [1] to

[1] See *http://www.ecfr.gov/cgi-bin/text-idx?SID=e47b48a9ea42dd67d999246e23d97*

assist medical examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce. [49 CFR part 391, APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section *D. Cardiovascular: § 391.41(b)(4),* paragraph 4.] The advisory criteria states that ICDs are disqualifying due to risk of syncope.

Qualifications of Applicants

Charles R. Allen

Mr. Allen is a 47 year old commercial motor vehicle driver in Michigan. A report that he provided from July 2015 from the Veterans Administration Ann Arbor Healthcare System provider indicates, ''he has well compensated class-I–II congestive heart failure with and ICD. He has a normal ejection fraction of 50–55%''.

William Blake

Mr. Blake is a 57 year old Class A CDL holder in New Hampshire. His ICD was implanted in June 2015 and has never deployed. A January 5, 2016 cardiologist report indicates; ''No symptoms referable to ICD or underlying rhythm changes. I believe the risk of recurrent ventricular tachy-arrhythmias or syncope is very low, however, given the history of these abnormalities and the family history of arrhythmias I would favor continued ICD implantation''.

Roosevelt Tyrone Brown

Mr. Brown is a 54 year old Class A CDL holder in South Carolina. A March 17, 2016 letter from his cardiologist states that Mr. Brown's ICD was implanted October 15, 2013, and that recent echocardiography demonstrated an ejection fraction in the 25–30 percent range and a calculated ejection fraction of 24% from nuclear stress testing. A March 10, 2016 report from his electrophysiologist indicates that Mr. Brown has reported one shock from his device. Overall he feels well and denies chest pain, shortness of breath, or dyspnea on exertion.

Kevin Coulter

Mr. Coulter is a 60 year old Class A CDL holder in California. A June 2016 letter from his cardiologist states that his ICD was implanted in February 2015. No shock has deployed since implantation. He has been asymptomatic. He has an ejection fraction of 40–45%, most recently measured in April 2015.

John Dudar

Mr. Dudar is a 55 year old Class A CDL holder in Connecticut. An undated cardiologist report indicates that the ICD has been in place since 2003. ''He has experienced several shocks from his device and around that time was upgraded to biventricular ICD. At least back to 2009 he has not received any ICD discharges. His device is stable and at this point he really has no significant heart failure symptoms. His last ejection fraction was estimated at 25% in August 2013. His cardiac issues appear stable. He has had no recent ventricular arrhythmias and he has a normally functioning Biv-ICD''.

Timothy Godwin

Mr. Godwin is a 51 year old Class A CDL holder in North Carolina. A March 30 2016 report from his cardiac electrophysiologist indicates knowledge of the driver and his condition since 2014 and that (Mr. Godwin) has not required any therapies before or after ICD implant, nor has he lost consciousness at any time. ''I consider him to be safer than most other commercial drives who have undiagnosed or untreated cardiovascular problems. I feel that rather than the presence or absence of an ICD in a patient what is most important is the underlying cardiac condition and risk for loss of consciousness. Treated, Mr. Godwin is at average risk''.

James Goslee

Mr. Goslee is a 52 year old driver in Maryland. A May 2016 letter from his cardiologist states that his ICD was implanted in June 2104. His ICD has never delivered therapy. He follows up regularly in the office and is free of cardiac complaints. An April 2016 study shows an ejection fraction of 65–70% and an exercise tolerance at 10 minutes of Bruce protocol. The current status of underlying heart condition is low intermediate cardiovascular risk profile.

Richard Hacker

Mr. Hacker is 62 year old Class A CDL holder in Maryland. Medical documents from June 2016 from his cardiologist state that his ICD was implanted in 2007. The device check in June 2016 indicated no events for 10.5 years. Mr. Hacker's ejection fraction is 53%. His medical documentation indicates that he has no symptoms.

Kathryn Kosse

Ms. Kosse is a 63 year old Class D holder in Arizona. A May 2016 letter from her cardiologist states that her defibrillator was implanted in October 2014. ''Her ICD has never deployed and her symptoms have completely resolved. Her left ventricular ejection fraction is normal. Ms. Kosse appears to be in stable cardiovascular health''.

Joseph Skrzyniarz

Mr. Skrzyniarz is a 56 year old Class A CDL holder in Michigan. He possesses a one-year Michigan waiver dated October 22, 2015 for intrastate driving. A September 15, 2015 cardiologist-electrophysiologist report indicates that his ICD has been implanted since February 2015. He has not received any ICD shocks from his device at this time. ''He had two episodes of asymptomatic non-sustained ventricular tachycardia. His condition is stable over the past year and unchanged. He has not had any ICD shocks or dangerous arrhythmias. He has been asymptomatic and is safe to operate a commercial vehicle in accordance to his job description which was provided. I have no reservations at this time''. A September 17 cardiologist report provides that, ''To date the device has not been activated and his underlying cardiac condition has been deemed stable.''

Wylanne Deon Stafford

Mr. Stafford is a 48 year old driver in Illinois. An April 26, 2016 report from his cardiologist indicates that Mr. Stafford's ICD was implanted in 2011 and has never fired. His cardiologist indicates that since ICD placement, his ejection fraction has normalized to 55% and he is asymptomatic and stable.

II. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the date section of the notice.

III. Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number ''FMCSA–2016–0175'' and click the search button. When the new screen appears, click on the blue ''Comment

970&mc=true&node=pt49.5.391&rgn=div5#ap49.5.391_171.a and *https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf.*

Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and materials received during the comment period. FMCSA may issue a final determination any time after the close of the comment period.

IV. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2016–0175 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to this notice.

Issued on: July 29, 2016.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2016–18737 Filed 8–5–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2016–0031]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemptions; request for comments.

SUMMARY: FMCSA announces receipt of applications from 11 individuals for exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. If granted, the exemptions would enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce.

DATES: Comments must be received on or before September 7, 2016. All comments will be investigated by FMCSA. The exemptions will be issued the day after the comment period closes.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2016–0031 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–113, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' FMCSA can renew exemptions at the end of each 2-year period. The 11 individuals listed in this notice have each requested such an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

II. Qualifications of Applicants

Daniel S. Billig

Mr. Billig, 29, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2015, his optometrist stated, ''In my medical opinion, Daniel has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Billig reported that he has driven straight trucks for 3 years, accumulating 30,000 miles. He holds an operator's license from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Duane N. Brojer

Mr. Brojer, 50, has had amblyopia in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, 20/100. Following an examination in 2016, his optometrist stated, ''Dr. L. Victor Sandoval certifies that in his medical opinion, Duane has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Brojer reported that he has driven straight trucks for 21 years, accumulating 756,000 miles. He holds an operator's license from New Mexico. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Jeffrey D. Davis

Mr. Davis, 56, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2016, his optometrist stated, ''Mr. Davis has sufficient vision to perform driving tasks that are required to operate a commercial vehicle.'' Mr. Davis reported that he has driven straight trucks for 2 years, accumulating 23,400 miles, and tractor-trailer combinations for 26 years, accumulating 624,000 miles. He holds a Class A CDL from North Carolina. His driving record for the last 3 years shows one crash in a CMV, to which he contributed but for which he was not cited, and no convictions for moving violations in a CMV.

Paul D. Evenhouse

Mr. Evenhouse, 59, has had exotropia in his left eye since birth. The visual acuity in his right eye is 20/25, and in his left eye, 20/200. Following an examination in 2016, his optometrist stated, ''The patient reports that he has driven a large truck with CDL license for about 40 years. Since he has passed your CDL vision criteria in the past, and his vision and eye health are stable, I believe he can continue safely.'' Mr. Evenhouse reported that he has driven straight trucks for 31 years, accumulating 1.13 million miles. He holds a Class B CDL from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Jonathan W. Gibbons

Mr. Gibbons, 40, has had refractive amblyopia in his right eye since birth. The visual acuity in his right eye is 20/50, and in his left eye, 20/20. Following an examination in 2016, his optometrist stated, ''It is my opinion that Mr. Gibbons has more than sufficient vision to operate a commercial vehicle.'' Mr. Gibbons reported that he has driven straight trucks for 4 years, accumulating 120,000 miles. He holds a Class AM CDL from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Shane J. Graff

Mr. Graff, 29, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/200, and in his left eye, 20/20. Following an examination in 2016, his optometrist stated, ''Mr. Graff will need to wear a correction, but with this correction, will have 20/20 visual acuity and full peripheral field of vision. There should be no difficulty with him driving a commercial vehicle at this time.'' Mr. Graff reported that he has driven tractor-trailer combinations for 13 years, accumulating 390,000 miles, and buses for 8 years, accumulating 40,000 miles. He holds an operator's license from Michigan. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Brian D. Hoover

Mr. Hoover, 53, has had amblyopia in his left eye since birth. The visual acuity in his right eye is 20/15, and in his left eye, 20/100. Following an examination in 2016, his optometrist stated, ''I, Denise C. Gimbel, OD, in my medical opinion, feel Brian Hoover has sufficient vision to perform the [*sic*] driving tasks required to operate a commercial vehicle.'' Mr. Hoover reported that he has driven straight trucks for 34 years, accumulating 3,400 miles, and tractor-trailer combinations for 34 years, accumulating 68,000 miles. He holds a Class A CDL from Iowa. His driving record for the last 3 years shows one crash, which he was not cited for, and no convictions for moving violations in a CMV.

Michael A. Kafer

Mr. Kafer, 32, has had refractive amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/100. Following an examination in 2016, his optometrist stated, ''It is my medical opinion Michael Kafer has sufficient vision to perform the driving task as required to operate a commercial vehicle.'' Mr. Kafer reported that he has driven tractor-trailer combinations for 10 years, accumulating 35,000 miles. He holds a Class A CDL from Kansas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Christopher Robinson

Mr. Robinson, 38, has had Coat's retinopathy in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2016, his ophthalmologist stated, ''In my medical opinion, he has sufficient vision to perform the driving tasks for operating a commercial vehicle.'' Mr. Robinson reported that he has driven straight trucks for 4 years, accumulating 124,800 miles, and tractor-trailer combinations for 4 years, accumulating 140,000 miles. He holds a Class A CDL from New York. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Joshua R. Stanley

Mr. Stanley, 43, has a corneal scar in his right eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/250, and in his left eye, 20/20. Following an examination in 2016, his optometrist stated, ''Mr. Stanley has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Stanley reported that he has driven straight trucks for 3 years, accumulating 28,300 miles. He holds an operator's license from Oklahoma. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Charles F. Tibbetts

Mr. Tibbetts, 67, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/70. Following an examination in 2016, his optometrist stated, ''The above is under my care and is visually impaired (mildly) in the left eye due to amblyopia which began at childhood and is stable. He should be allowed to drive a commercial vehicle.'' Mr. Tibbetts reported that he has driven straight trucks for 10 years, accumulating 50,000 miles, and tractor-trailer combinations for 14 years, accumulating 364,000 miles. He holds an operator's license from South Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

III. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and put the docket number FMCSA–2016–0031 in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the

following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period. FMCSA may issue a final determination at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and insert the docket number FMCSA–2016–0031 in the ''Keyword'' box and click ''Search.'' Next, click ''Open Docket Folder'' button and choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Issued on: July 27, 2016.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2016–18735 Filed 8–5–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2015–0351]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 22 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. The Agency has concluded that granting these exemptions will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these CMV drivers.

DATES: The exemptions were granted April 28, 2016. The exemptions expire on April 28, 2018.

FOR FURTHER INFORMATION CONTACT: Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–113, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

II. Background

On March 28, 2016, FMCSA published a notice of receipt of exemption applications from certain individuals, and requested comments from the public (81 FR 17237). That notice listed 22 applicants' case histories. The 22 individuals applied for exemptions from the vision requirement in 49 CFR 391.41(b)(10), for drivers who operate CMVs in interstate commerce.

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. Accordingly, FMCSA has evaluated the 22 applications on their merits and made a determination to grant exemptions to each of them.

III. Vision and Driving Experience of the Applicants

The vision requirement in the FMCSRs provides: A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing red, green, and amber (49 CFR 391.41(b)(10)).

FMCSA recognizes that some drivers do not meet the vision requirement but have adapted their driving to accommodate their limitation and demonstrated their ability to drive safely. The 22 exemption applicants listed in this notice are in this category. They are unable to meet the vision requirement in one eye for various reasons, including amblyopia, aphakia, central scotoma, complete loss of vision, corneal scar, macular scar, open angle glaucoma, optic nerve damage, prosthetic eye, retinal detachment, and strabismic amblyopia. In most cases, their eye conditions were not recently developed. Fifteen of the applicants were either born with their vision impairments or have had them since childhood.

The 7 individuals that sustained their vision conditions as adults have had it for a range of 5 to 30 years.

Although each applicant has one eye which does not meet the vision requirement in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. Doctors' opinions are supported by the applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, States subject drivers to knowledge and skills tests designed to evaluate their qualifications to operate a CMV.

All of these applicants satisfied the testing requirements for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a CMV, with their limited vision, to the satisfaction of the State.

While possessing a valid CDL or non-CDL, these 22 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. They have driven CMVs with their limited vision in careers ranging for 5 to 41 years. In the past three years, 3 drivers were involved in crashes, and 1 driver was convicted of a moving violation in a CMV.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the March 28, 2016 notice (81 FR 17237).

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the vision requirement in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered the medical reports about the applicants' vision as well as their driving records and experience with the vision deficiency.

To qualify for an exemption from the vision requirement, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely with the vision deficiency for the past 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at Docket Number FMCSA–1998–3637.

FMCSA believes it can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) former waiver study program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively (See 61 FR 13338, 13345, March 26, 1996). The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (See Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 22 applicants, 3 drivers were involved in crashes, and 1 driver was convicted of a moving violation in a CMV. All the applicants achieved a record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

We believe that the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he/she has been performing in intrastate commerce. Consequently, FMCSA finds that exempting these applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the Agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31136(e) and 31315 to the 22 applicants listed in the notice of March 28, 2016 (81 FR 17237).

We recognize that the vision of an applicant may change and affect his/her ability to operate a CMV as safely as in the past. As a condition of the exemption, therefore, FMCSA will impose requirements on the 22 individuals consistent with the grandfathering provisions applied to drivers who participated in the Agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following:

(1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirement in 49 CFR 391.41(b)(10) and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

V. Discussion of Comments

FMCSA received three comments in this proceeding. Austen Barlow stated she is in favor of granting the exemptions because she believes these

drivers will exercise more caution than those who meet the standards. Roy Hegland stated that he is in favor of granting the exemptions based on the professional experience of his daughter who has a vision deficiency. An anonymous commenter stated that they are against granting the exemptions because of safety concerns related to the vision deficiencies of the drivers, specifically regarding depth perception of the drivers and larger blind spots while operating CMVs. As stated in section four of this notice, medical evaluations from each driver, their driving records, driving experience with the vision deficiency, and safety concerns, are all considered when determining if an exemption should be granted. Studies pertaining to the efficacy of these considerations are also referenced in section four.

VI. Conclusion

Based upon its evaluation of the 22 exemption applications, FMCSA exempts the following drivers from the vision requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above (49 CFR 391.64(b)):

Lee R. Boykin (TX)
Donald Carrillo (NM)
Carl F. Cryer (AL)
Steven W. Day (MO)
Roger M. Dunaway (KY)
Horace N. Goss (TX)
Matt A. Guilmain (NH)
Hugo N. Gutierrez (IN)
Edward R. Hunt (NC)
William J. Kanaris (NY)
Harvey Klein (NJ)
Ronnie L. McHugh (KS)
Walter J. Musty (MN)
John O'Boyle (PA)
Michael L. Robinson (MO)
Donald P. Ruckinger (PA)
Mark A. Sanders (OK)
Michael J. Scarano (NJ)
Edward P. Schrader II (WA)
Charles H. Strople (MA)
Eddie Walker (NC)
Trent Wipf (SC)

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: July 29, 2016.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2016–18733 Filed 8–5–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

National Hazardous Materials Route Registry Revisions and Procedures

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice

SUMMARY: This notice provides the most current revisions to the National Hazardous Materials Route Registry (NHMRR) and procedures to facilitate the update of the NHMRR by State and Tribal government routing agencies. The NHMRR is a listing, as reported by States and Tribal governments, of all designated and restricted road and preferred highway routes for transportation of highway route controlled quantities (HRCQ) of Class 7 radioactive materials (RAM) (HRCQ/RAM) and non-radioactive hazardous materials (NRHMs).

DATES: Effective date: August 8, 2016.

FOR FURTHER INFORMATION CONTACT: Mr. Vincent Babich (202) 366–4871, or *vincent.babich@dot.gov*, Hazardous Materials Division, Office of Enforcement and Compliance, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave. SE., Washington, DC 20590. Office hours are from 9 a.m. to 5 p.m., E.T., Monday through Friday, except for Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Paragraphs (a)(2) and (b) of section 5112 of title 49, United States Code (U.S.C.) permit States and Tribal governments to designate and limit highway routes over which HRCQ/RAM and NRHM may be transported, provided that the State or Tribal government complies with standards prescribed by the Secretary of Transportation (the Secretary) and meets publication requirements in section 5112(c). To establish standards under paragraph (b), the Secretary must consult with the States, and, under section 5112(c), coordinate with the States to publish periodically a list of currently effective HRCQ/RAM and NRHM highway routing designations and restrictions. The requirements that States and Tribal governments must follow to establish, maintain, or enforce routing designations for the transport of placardable quantities of NRHM are set forth in 49 CFR part 397, subpart C. Subpart D of part 397 sets out the requirements for designating preferred routes for HRCQ/RAM shipments as an alternative, or in addition, to Interstate System highways. For HRCQ/RAM shipments, § 397.101 defines a preferred route as an Interstate Highway for which no alternative route is designated by the State; a route specifically designated by the State; or both. See § 397.65 for the definition of ''NRHM'' and ''routing designations.''

Under a delegation from the Secretary,[1] FMCSA has authority to implement 49 U.S.C. 5112.

Currently, 49 CFR part 397, subpart C, (Routing of NRHM) and subpart D (Routing of Class 7 RAM) address the routing requirements and procedures that State and tribal government are required to follow. Section 397.73 establishes public information and reporting requirements for NRHM. States or Tribal governments are required to furnish information regarding any new or changed routes to FMCSA within 60 days after establishment. Under 49 CFR 397.103, a State routing designation for HRCQ/RAM routes (preferred routes) as an alternative, or in addition, to an Interstate System highway, is effective when the authorized routing agency provides FMCSA with written notification, FMCSA acknowledges receipt in writing, and the route is published in FMCSA's Hazardous Material Route Registry. The Office of Management and Budget has approved these collections of information under control number 2126–0014, Transportation of Hazardous Materials, Highway Routing. This notice serves only to provide the most current updates to the NHMRR, and to communicate to States and Tribal government routing agencies procedures to facilitate timely reporting and efficient update of the NHMRR as required by 49 U.S.C. 5112 and 49 CFR part 397; it does not establish any new public information and reporting requirements.

Procedural Changes

Section 33013 of the Moving Ahead for Progress in the 21st Century Act of 2012 (MAP–21) [Pub. L. 112–141, July 6, 2012, 126 Stat. 405, 839] amended 49 U.S.C. 5112(c), which addresses the form, manner, and timetable for State and Tribal Governments to issue and update routing information for

[1] 49 CFR 1.87(d)(2).

commercial motor vehicles transporting hazardous material in commerce for which DOT regulations require placarding of the vehicle .In October 2014, FMCSA published a Technical Amendments Rule that included amendments to 49 CFR 397.69 to address section 33013 of the statute [79 FR 59450; October 2, 2014]. Among the amendments was a State reporting requirement to include the name of the agency responsible for the highway route designations, and another to clarify that any State- or Tribal-government-designated route is effective only after publication in the NHMRR. This notice further addresses the form and manner for updating this information by establishing a procedure for updating the NHMRR in accordance with the statute and regulations.

Updates to the NHMRR

The most up-to-date version of the NHMRR, was published in the **Federal Register** on April 29, 2015 (80 FR 23860) and can be accessed on the internet at: *http://www.fmcsa.dot.gov/regulations/hazardous-materials/national-hazardous-materials-route-registry*. Further, this Web page provides a link to *http://www.fmcsa.dot.gov/regulations/hazardous-materials/national-hazardous-materials-route-registry-state* which provides the Route Registry listing of each individual State and Tribal government as well as information on the official routing agency. This information, available for use by the routing agencies as well as the general public, is presented, in three formats; a spreadsheet, a PDF file, and as available, an interactive map. In addition, FMCSA has established an internet mailbox at *hmrouting@dot.gov* to facilitate communication with routing agencies.

While the route designation reporting requirements of 49 CFR 397.73 and 397.103 do not provide a specific procedure to follow whenever there is change in routing designations, the FMCSA is providing the following procedure to facilitate State and Tribal government routing agencies in updating their Route Registry listing:

1. From *http://www.fmcsa.dot.gov/regulations/hazardous-materials/national-hazardous-materials-route-registry-state*, open the appropriate Route Registry spreadsheet for your jurisdiction.
2. Modify the spreadsheet as necessary following the instructions on the Web page and the spreadsheet.
3. Revisions made to the spreadsheet cannot be saved directly to the Web page. The revised spreadsheet must be saved to a different location.
4. Forward the revised spreadsheet file as an attachment to an email to *hmrouting@dot.gov*; Or forward a printout of the revised spreadsheet via certified mail (return receipt requested) to FMCSA, Office of Enforcement and Compliance (MC–EC), 1200 New Jersey Ave. SE., Washington, DC 20590–0001. Attention: National Hazardous Materials Route Registry.
5. FMCSA will acknowledge via email the receipt of all changes received via the ''HM Routing'' internet mailbox.
6. FMCSA will publish the revisions as a Notice in the **Federal Register** and incorporate the revisions, as applicable, into the appropriate State or Tribal Government Route Register spreadsheet, PDF file, and map posted on the National Hazardous Materials Route Registry Web page.

Revisions to the National Hazardous Materials Route Registry

Since FMCSA published the NHMRR in a Notice on April 29, 2015 (80 FR 23860), the State of California has notified the FMCSA of the following revisions to their Route Registry:

Table 16.—California—Restricted HM routes
Route Order designator ''I'' is revised.
Table 1.—California—Designated HRCQ/RAM routes
Route Order designator ''A'' is revised.
Route Order designator ''B1'' is revised.
Route Order designator''B2'' is revised.
Route Order designator ''F1'' is revised.
Route Order designator ''B6A–2.0–A is added and assigned a ''P'' designation.
Route Order designator ''H'' is added and assigned a ''P'' designation.

In accordance with the requirements of 49 CFR 397.73 and 397.103, the Route Registry listings for the State of California, as published in Tables 16 and 17 are being revised. The following revised tables reflect the most current Route Registry listings for the State of California and supersede and replace the corresponding tables of the April 29, 2015 notice. The changes to the listings contained in the following tables are also reflected in the information posted on the internet at *http://www.fmcsa.dot.gov/regulations/hazardous-materials/national-hazardous-materials-route-registry*. No other States submitted changes.

TABLE 2—CALIFORNIA—RESTRICTED HM ROUTES

Designation date	Route order	Route description	City	County	Restriction(s) (0,1,2,3,4,5,6,7,8,9,i)
10/28/92	A	No person shall drive or permit the driving of any vehicle transporting commodities listed in Section 13 CCR 1150 upon any highway not designated by this article. For pickup and delivery not over designated routes, the route selected must be the shortest-distance route from the pickup location to the nearest designated route entry location, and the shortest-distance route to the delivery location from the nearest designated route exit location.			1
01/01/95	B	State 75 [Coronado Toll Bridge] from Mile Post 20.28 to Mile Post R22.26 Junction 5 [San Diego County]. No flammables/corrosives or explosives on Coronado Bay Bridge (otherwise route is terminal access).	San Diego	San Diego	1,2,3,4
06/29/00	C	Sepulveda Blvd. [tunnel] from Interstate 105/Imperial Highway to W. Century Blvd. [Restriction for Tank Vehicles].	Los Angeles ..	Los Angeles ..	1,2,3,4,5,6,8
10/28/92	D	State 118 from State 232 [Oxnard] to Los Angeles [western county line].			1
01/01/95	E	State 154 from State 246 [MP 8.11—Santa Ynez] to US 101 [near Los Olivos]. No hazardous materials or waste except pickup and delivery (otherwise, from R8.11 to R9.97 is Terminal Access and from R9.97 to 32.29 is California Legal).		Santa Barbara	0

TABLE 2—CALIFORNIA—RESTRICTED HM ROUTES—Continued

Designation date	Route order	Route description	City	County	Restriction(s) (0,1,2,3,4,5,6,7,8,9,i)
1968	F	Monterey Traffic Underpass from Washington St. to Lighthouse Ave. [Alternate route: Pacific St. to Del Monte Ave.].	Monterey	Monterey	0
03/26/13	G	State 1 Tom Lantos Tunnel (Devil's Slide Tunnel) ..... No explosives (Class 1), flammable gases (Division 2.1), or flammable and combustible liquids (Class 3).	Pacifica	San Mateo	1, 2, 3
01/01/95	H	State 84 from State 238/Mission Blvd. [MP 10.83—Fremont] to Interstate 680 [Sunol]. Trucks restricted from transporting hazardous materials and waste due to adjacent drinking water source (otherwise, route is Advisory 32).		Alameda	0
02/25/95	I	US 101/Golden Gate Bridge ..... [Bridge escort required. No vehicles transporting explosives are permitted on the bridge between 6:30–9:30 and 16:00–19:00 on weekdays].		San Francisco	1
01/01/95	J	Interstate 80—SF-Oakland Bay Bridge from Mile Post 4.92 [San Francisco] to Mile Post 2.20 [Alameda County]. No flammable tank vehicles or explosives on SF-Oakland Bay Bridge (otherwise, route is National Network).	San Francisco		1, 2, 3, 4
01/01/95	K	State 260 from Atlantic Ave. [MP R0.62—Alameda] to Interstate 880 [MP R1.92—Oakland] [Eastbound Webster St. Tube & Westbound Posey Tube]. Trucks restricted from transporting hazardous materials and waste through Webster and Posey Tubes (otherwise, route is California Legal).		Alameda	0
01/01/95	L	State 24 [Caldecott Tunnel] from Mile Post R5.89 [Alameda County] to Mile Post R0.35 [Contra Costa County]. [Transportation of an explosive substance, flammable liquid, liquefied petroleum gas, or poisonous gas in a tank truck, trailer, or semi-trailer is allowed through the tunnel only between the hours of 3:00 AM and 5:00 AM.] Otherwise route is National Network.			1, 2, 3
10/28/92	M	Tennessee St. from Mare Island Way to Columbus Way.	Vallejo	Solano	1
01/01/95	N	State 20 from State 29 [MP 8.32—Upper Lake] to State 53 [MP 31.62—Clearlake Oaks]. [No vehicles transporting hazardous materials or waste due to adjacent waters (otherwise, route is terminal access).].		Lake	0

TABLE 3—CALIFORNIA—DESIGNATED HRCQ/RAM ROUTES

Designation date	Route order	Route description	City	County	Designation(s) (A,B,I,P)	FMCSA QA comment
10/19/94	A	SR 905 from Mexican Border to Interstate 805.			P	This route will be considered by the California Highway Patrol for updates in a future rule-making.
10/19/94	B1	Interstate 805 from Interstate 5 [north of the City of San Diego] to State Route 905.		San Diego	P	This route will be considered by the California Highway Patrol for updates in a future rule-making.
10/19/94	B2	Interstate 5 from State 78 [MP 51—Carlsbad] to Interstate 8.			P	
10/19/94	B2A	Interstate 15 from State 163 to Interstate 8.	San Diego	San Diego	P	
10/19/94	B2B	Interstate 8 from Arizona to Interstate 5 [San Diego].			P	
10/19/94	B3	Interstate 5 from Interstate 405 [MP 93—Irvine] to State 78 [MP 78—Carlsbad].			P	
10/19/94	B3A	Interstate 15 from State 60 [Mira Loma] to State 163 [San Diego].			P	
10/19/94	B4	Interstate 5 from Interstate 605 [MP 123—Santa Fe Springs] to Interstate 405 [MP 93—Irvine].			P	

TABLE 3—CALIFORNIA—DESIGNATED HRCQ/RAM ROUTES—Continued

Designation date	Route order	Route description	City	County	Designation(s) (A,B,I,P)	FMCSA QA comment
10/19/94	B4A	Interstate 15 from Nevada border to State 60 [Mira Loma].			P	
10/19/94	B5	Interstate 605 from Interstate 210 [Duarte] to Interstate 5 [Santa Fe Springs].		Los Angeles	P	
10/19/94	B5A–1.0	Interstate 40 from Arizona to Interstate 15 [Barstow].			P	
10/19/94	B6A–1.0	Interstate 10 from Arizona to Interstate 605 [Baldwin Park].			P	
10/19/94	B6A–2.0	Interstate 210 from Interstate 5 [Sylmar] to State 57 [Glendora].		Los Angeles	P	
04/01/14	B6A–2.0A	State Route 57 from Interstate 210 to Interstate 10.			P	
10/19/94	B7A–2.0	Interstate 5 from Oregon [MP 796] to Interstate 210 [MP 160—Sylmar].			P	
10/19/94	C1	Interstate 280 from Interstate 680 [in San Jose] to Interstate 380 [in San Francisco].			P	
10/19/94	C2	Interstate 680 from Interstate 80 [Cordelia Junction, Fairfield] to Interstate 280 [San Jose].			P	
10/19/94	D1	Interstate 880 from Interstate 980 [Oakland] to Interstate 238 [San Leandro].		Alameda	P	
10/19/94	D2A	Interstate 980 from Interstate 580 to Interstate 880.	Oakland	Alameda	P	
10/19/94	E	Interstate 238 from Interstate 580 [Ashland] to Interstate 880 [San Leandro].		Alameda	P	
10/19/94	F1	Interstate 580 from Interstate 5 to Interstate 238.			P	
10/19/94	F2A	Interstate 205 from Interstate 5 [Lanthrop] to Interstate 580 [Alameda County]''.			P	
10/19/94	G	Interstate 80 from Nevada to Interstate 580 [north of Oakland].			P	
04/01/14	H	Interstate 505 from Interstate 5 to Interstate 80.			P	

Issued on: July 23, 2016.

T.F. Scott Darling, III,

Administrator.

[FR Doc. 2016–18729 Filed 8–5–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Application of Trans Northern Airways LLC for Commuter Authority

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause (Order 2016–8–5) Docket DOT–OST–2016–0057.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order tentatively finding Trans Northern Airways LLC fit, willing, and able to provide scheduled passenger service as a commuter air carrier using small aircraft pursuant to Part 135 of the Federal Aviation Regulations.

DATES: Persons wishing to file objections should do so no later than August 16, 2016.

ADDRESSES: Objections and answers to objections should be filed in Docket DOT–OST–2016–0057 and addressed to U.S. Department of Transportation, Docket Operations, (M–30, Room W12–140), 1200 New Jersey Avenue SE., West Building Ground Floor, Washington, DC 20590, and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Catherine J. O'Toole, Air Carrier Fitness Division (X–56, Room W86–489), U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, (202) 366–9721.

Dated: August 2, 2016.

Susan McDermott,

Deputy Assistant Secretary for Aviation and International Affairs.

[FR Doc. 2016–18728 Filed 8–5–16; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Extension With Revision; Submission for OMB Review; Bank Secrecy Act/ Money Laundering Risk Assessment

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork

and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed information collection, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) (PRA).

In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The OCC is soliciting comments concerning an information collection titled ''Bank Secrecy Act/Money Laundering Risk Assessment,'' also known as the Money Laundering Risk (MLR) System.

The OCC is also announcing that the proposed collection of information with extension has been submitted to OMB for review and clearance under the PRA.

DATES: Comments must be submitted by September 7, 2016.

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email, if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–0231, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465–4326 or by electronic mail to *prainfo@occ.treas.gov*. You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700, or for persons who are deaf or hard of hearing, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Additionally, please send a copy of your comments by mail to: OCC Desk Officer, 1557–0231, U.S. Office of Management and Budget, 725 17th Street NW., #10235, Washington, DC 20503, or by email to: *oira_submission@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, OCC Clearance Officer, (202) 649–5490, or for persons who are deaf or hard of hearing, TTY, (202) 649–5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, the OCC has submitted the following proposed collection of information to OMB for review and clearance.

Bank Secrecy Act/Anti-Money Laundering Risk Assessment

The MLR System enhances the ability of examiners and bank management to identify and evaluate any Bank Secrecy Act (BSA)/Money Laundering (ML) and Office of Foreign Assets Control (OFAC) sanctions risks associated with the banks' products, services, customers, and locations. As new products and services are introduced, existing products and services change, and banks expand through mergers and acquisitions, a bank's management's evaluation of potential new money laundering and terrorist financing risks is expected to evolve as well. The MLR risk assessment is an important tool for the OCC's BSA/Anti-Money Laundering (AML)/OFAC supervision activities because it allows the OCC to better identify those institutions, and areas within institutions, that pose heightened risk, and allocate examination resources accordingly. This risk assessment is critical to protect financial institutions of all sizes from potential abuse from money laundering or terrorist financing. Absent an appropriate risk assessment, applicable controls cannot be effectively implemented for lines of business, products, or entities, which would elevate BSA, AML, and OFAC compliance risks.

The OCC will collect MLR information for all financial institutions supervised by the OCC.

OMB Control No.: 1557–0231.

Type of Review: Regular.

Frequency of Response: Annual.

Burden Estimates:

Community Bank and Federal Branches and Agencies populations:

Estimated Number of Respondents: 1,450.

Estimated Number of Responses: 1,450.

Frequency of Response: Annually.

Estimated Annual Burden: 8,700 hours.

Midsize Bank population:

Estimated Number of Respondents: 47.

Estimated Number of Responses: 47.

Frequency of Response: Annually.

Estimated Annual Burden: 1,175 hours.

Large Bank population:

Estimated Number of Respondents: 38.

Estimated Number of Responses: 38.

Frequency of Response: Annually.

Estimated Annual Burden: 3,040 hours.

The OCC issued a 60-day **Federal Register** notice on January 4, 2016, soliciting comments concerning combining this existing community bank information collection with expansion to all OCC-supervised institutions.[1] Eight comments were received: Four from OCC-supervised banks, two from industry associations, one from a bank holding company and one from an individual. Of the five comments received from a bank holding company or a bank, three were from midsize banks, and the remaining two comments were from community banks.

1. Comments on Practical Utility of the Data Collection

Comments were invited on whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility. Two commenters stated concern for either the small degree of practical utility or no practical utility obtained by requiring all OCC-supervised banks to report MLR data and linked the cost/benefit value of the cost of gathering and reporting the data to the benefit derived to the bank or to the OCC. An additional commenter stated that they saw no prudential or supervisory benefit to expanding the annual MLR data collection requirement to midsize or large banks when the OCC has access to the information on a dynamic basis. One commenter stated that the OCC must clearly demonstrate that costs and burdens associated with MLR do not outweigh the benefits. One commenter stated that the collection of MLR data is not necessary because the OCC already has access to the data through its supervisory process, including the current BSA/AML risk assessment expectation.

Six commenters stated that the one-size-fits-all approach or proposed mandatory uniform approach for collecting MLR data from all OCC-supervised banks is inconsistent or at odds with the Federal Financial Institutions Examination Council (FFIEC) BSA/AML Examination Manual (Manual), as the FFIEC Manual provides for a variety of effective methods and

[1] 81 FR 143 (January 4, 2016).

formats to be used in completing a risk assessment. Two commenters stated that requiring only OCC-supervised banks to report MLR data would create the equivalent of an ''uneven playing field'' for national banks and Federal thrifts and agencies. One commenter stated that the OCC should explain why collecting rudimentary MLR summary data is needed when there are relatively few BSA enforcement actions and other supervisory actions related to the BSA. One commenter stated that the proposal does not provide analysis of why extending the MLR to all financial institutions would enhance the ability of examiners and bank management to identify and evaluate BSA/ML and sanctions risks. The commenter further stated that the proposal does not explain how BSA/AML/OFAC risk assessment provided through the MLR System enhances the OCC's understanding of such risks or why this information is necessary for the OCC to address supervisory concerns about those financial institutions.

Collecting MLR data from all supervised banks will yield substantial information that will provide a high degree of utility for the OCC in meeting its supervisory obligations under applicable statutes and regulations.[2] The purpose of the MLR System is to support the OCC's supervisory objectives by allowing for the identification and analysis of BSA/ML and OFAC sanctions risks across the population of all OCC-supervised banks, to assist examiners in carrying out risk-based supervision pursuant to the FFIEC Manual, and to meet the OCC's supervisory obligations under applicable statutes and regulations.[3] Whether to collect MLR data is not in any way linked to whether an institution is the subject of a BSA/AML/OFAC enforcement or any other type of supervisory action. MLR data is simply data about a bank's products, services, customers, and geographies that is gathered prior to examinations to promote effectiveness and efficiency in OCC examination scoping and transaction testing. The expansion of the MLR System to all OCC-supervised institutions will allow contemporaneous data to be analyzed consistently across the agency and thus will allow the OCC to better identify those institutions, and areas within institutions, that pose heightened BSA/ML, and OFAC risk. The data collected through the MLR process is not collected by the OCC in any similar format.

The MLR is not intended to supplant banks' full BSA and OFAC risk assessments. The OCC's evaluation of a bank's full risk assessment is performed during regular examinations. In addition to the OCC's uses, the MLR data can be used by banks as the first step in the two-step process of the banks' BSA and OFAC risk assessments. The first step in any risk assessment process is to gather data, and the MLR data gathered should be substantially similar to information needed to perform those internal bank analyses of BSA and OFAC risks.

Additionally, the self-reported MLR data are provided back to the bank along with peer data so that the bank can conduct comparison and trend analyses concerning their data and peer data.

While the FFIEC Manual was developed by the agencies[4] to ensure consistency in the application of BSA/AML requirements and to promote uniformity in the supervision of financial institutions, each agency has the ability to supplement the supervision process with their own tools. The MLR is one such tool the OCC uses in its BSA/AML supervision of banks that permits consistent identification of potentially higher-risk products, services, customers and geographies; expansion of the MLR will expand this utility across all OCC business lines and institution sizes.[5] Rather than contradict the consistent and uniform approach that using the FFIEC Manual provides, the MLR System complements the Manual's procedures for risk assessment and supervision purposes. The submission of MLR data in a consistent format allows the agency to perform effective data risk analytics. Extending the MLR to all OCC-supervised banks, Federal thrifts, and Federal branches and agencies will provide the OCC the same type of bank data to identify and evaluate BSA/ML and sanctions risks in a consistent manner, regardless of institution size.

2. Comments on Estimate of Burden

The OCC requested comment on the accuracy of the agency's estimate of the burden of the collection of the information. One commenter questioned what the OCC included in the estimate of burden hours. Another commenter stated that they agree with the estimate of burden hours for their institution but also stated concern for peer banks, noting that cost estimates vary greatly depending on the size, structure, and reporting format currently utilized and technological resources available to each bank. Six commenters stated that the estimate of burden is too low. Two commenters noted the reduction in the estimate of burden hours from 2013 for midsize and large bank populations, with one commenter making the assumption that technology is the reason for the reduction in hours.[6]

The OCC uses the legal standard for estimating burden hours under the PRA.[7] The term ''burden'' means time, effort, or financial resources expended by persons to generate, maintain, or provide information to or for a Federal agency, including the resources expended for: (a) Reviewing instructions; (b) acquiring, installing, and utilizing technology and systems; (c) adjusting the existing ways to comply with any previously applicable instructions and requirements; (d) searching data sources; (e) completing and reviewing the collection of information; and (f) transmitting, or otherwise disclosing the information. Collecting MLR data from OCC-supervised institutions is not expected to impose significant additional burden on banks because most institutions already generate or gather substantially similar data in the normal course of business in order to perform internal bank analyses of BSA/ML and OFAC risks. The burden included in the OCC's burden estimate is mainly the additional resources required to report the MLR data in an OCC-specified format.

The OCC has ten years' experience collecting MLR data from a large number of banks. The OCC estimates that the burden hours for midsize and

[2] 31 U.S.C. 5311, 12 U.S.C. 1818(s)(2), and implementing regulations 12 CFR 21.21, 31; 12 CFR 21.11 and 163.180, 12 CFR Title X, and Office of Foreign Assets Control sanction established under the Trading with the Enemy Act (TWEA); 50 U.S.C. App 1–44; International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1701; 31 U.S.C. 5311; 12 U.S.C. 1818(s)(2); 12 CFR 21.21; 12 CFR 21.11 and 163.180; and 31 CFR Title X.

[3] Ibid.

[4] The FFIEC is a formal interagency body empowered to prescribe uniform principles, standards, and report forms for the federal examination of financial institutions by the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), the Office of the Comptroller of the Currency (OCC), and the Consumer Financial Protection Bureau (CFPB), and to make recommendations to promote uniformity in the supervision of financial institutions. In 2006, the State Liaison Committee (SLC) was added to the Council as a voting member. The SLC includes representatives from the Conference of State Bank Supervisors (CSBS), the American Council of State Savings Supervisors (ACSSS), and the National Association of State Credit Union Supervisors (NASCUS).

[5] The OCC cannot address the tools used by the other agencies in their BSA/AML supervision roles.

[6] Burden estimates for midsize and large banks were included in the 2013 MLR PRA renewal notice published in the **Federal Register** on March 8, 2013 (78 FR 15121) even though the OCC has not collected the data from those bank populations up to this point.

[7] 44 U.S.C. 3502(2).

large bank populations will generally be higher than for community banks, Federal thrifts, and Federal branches and agencies. This is primarily because most midsize and large banks offer more products and services, involving a potentially wider range of customer types and geographies, than less complex community banks and Federal branches and agencies.

The OCC recognizes that each bank is unique and will have a different MLR reporting experience. For example, a bank's management information systems, structure, and complexity may impact the bank's MLR reporting, and, therefore, the bank's reporting burden. However, the OCC believes the data requested for MLR purposes is data that institutions will have readily available and that for the vast majority of banks, will not require substantial investment in technology or systems to collect and report. The OCC reduced the estimated burden hours for midsize banks to 25 hours in 2016 from 30 hours in 2013, and for large banks, reduced estimated burden hours to 80 hours in 2016 from 100 hours in 2013, due to implementing a fully automated MLR format. There is no change in the estimated burden for community banks and Federal branches and agencies in 2016 from 2013.

Finally, with regard to the estimate of burden, one commenter stated that failure to make publicly available the MLR risk summary form (RSF) used to collect the data in advance undermines the PRA review process and makes it difficult to comment on the accuracy of the agency's estimate of the burden. The OCC is permitted, but not required, to include the RSF as part of the 60-day **Federal Register** notice. The form is available, and was available at the time the 60-day **Federal Register** notice was issued, at *http://www.reginfo.gov* as an attachment to the OCC's 2013 PRA submission *http://www.reginfo.gov/public/do/PRAICList?ref_nbr=201302-1557-009*.

3. Comments on Possible Data Enhancements

The OCC requested comment on ways to enhance the quality, utility, and clarity of the information to be collected. One commenter stated that it was difficult to translate limited MLR data into BSA/ML risks. Another commenter stated that the MLR as currently contemplated is not useful nor is it worth the costs in terms of staff hours, system modification and training. The same commenter stated that the OCC should consider designing a customized, flexible cloud-based architecture within a secure data center. Additionally, this commenter stated that the OCC should establish an analytic team dedicated to importing, extrapolating, and analyzing the data collection from banks, with the platform designed to be flexible and dynamic to account for each individual bank's size, geography, and business. After testing, this commenter stated, consideration should be given to rolling the platform out on a risk-based basis to OCC-regulated banks. One commenter also stated that the OCC should consider making the MLR mandatory only in instances where the bank's own risk assessment is insufficient for the exam scoping process. Two commenters expressed concerns that the September 30 as-of report date was inconsistent with most banks that operate on a calendar-year basis.

The OCC collects the MLR data on bank customers, products, services, and geographies and analyzes the data in a way that identifies the higher-risk type customers, products, services, and geographies, consistent with the FFIEC Manual. The OCC uses the MLR data gathered to assist, across the population of reporting banks, with development of examination strategies, preparation of examination scoping to identify transactions for testing, and meeting the OCC's obligations under applicable statutes and regulations.[8] The OCC regularly reevaluates the infrastructure around the MLR and makes decisions about the most efficient and cost effective infrastructure and processes to utilize for the MLR System. An example of the OCC making changes to the MLR System was the updating of the MLR risk summary form to a fully automated data collection tool beginning in 2014. The OCC analytics team checks for data integrity issues, confirms various validity checks on the data, and analyzes the data used for OCC supervision purposes.

Through the collection of MLR data from community banks for the past ten years, the OCC has determined that this data allows the agency to better identify those institutions, and areas within institutions, that pose heightened risk of money laundering and terrorist financing and to allocate examination resources accordingly. Collecting data in a uniform fashion over the same time period from all OCC-supervised institutions is critical to developing a database that allows effective analytic reporting and benchmarking risks over time.

An approach of making MLR data reporting mandatory only in instances where the bank's own risk assessment was insufficient would add time to the examination process rather than expediting it. First, this approach would likely delay the OCC's mandated supervision schedule by taking away an important source of data for broad-based risk identification analysis and benchmarking that facilitates the OCC's annual examination strategy development and pre-planning activities, which are conducted potentially months in advance of an onsite examination. Second, on an individual bank level, this type of approach would require the OCC to review each bank's risk assessment during the exam scoping process before making a decision as to whether that bank would be required to report the MLR data, potentially extending the timeframe for each exam where the bank's risk assessment was deemed insufficient.

In response to the commenters' concerns that the September 30 reporting period is inconsistent with most banks' operating on a calendar year basis, the OCC notes that this date has not presented significant concerns in the ten years experience during which we have collected MLR data.

4. Comments on Minimizing Burden Through Information Technology

The OCC invited comment on ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology. Five commenters stated that the MLR data is duplicative of information already gathered in the normal course of bank supervision. These commenters recommended that the OCC not move forward with the proposal to extend the data collection. One commenter suggested that the OCC obtain aggregate domestic and international wire transfer and ACH transaction data, along with the various geographic locations of the international wires from the Federal Reserve Bank. One bank commenter stated they have concerns about customer privacy due to having the collection of data automated; however, there was no explanation provided. Two commenters expressed a concern for requiring that all banks submit MLR data annually, and one of those commenters stated that the frequency of the MLR data collection should be linked to the bank's ML risk profile. Another commenter stated that

[8] 31 U.S.C. 5311, 12 U.S.C. 1818(s)(2), and implementing regulations 12 CFR 21.21, 31; 12 CFR 21.11 and 163.180, 12 CFR Title X, and Office of Foreign Assets Control sanction established under the Trading with the Enemy Act (TWEA); 50 U.S.C. App 1–44; International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1701; 31 U.S.C. 5311; 12 U.S.C. 1818(s)(2); 12 CFR 21.21; 12 CFR 21.11 and 163.180; and 31 CFR Title X.

MLR data should be collected on an ''as needed'' basis.

The OCC notes that the MLR data is not duplicative or redundant and is not collected in any other format from OCC-supervised institutions. Wire transaction and ACH data obtained from the Federal Reserve Banks for OCC-supervised institutions is not sufficiently detailed for purposes of assessing BSA/ML/OFAC risk and planning exam strategies. Wire transaction data is limited to domestic wires only and does not include international wires, geographic locations, or whether the wires were sent Payable Upon Proper Identification (PUPI). Similarly, ACH data is limited to domestic ACH data and does not include cross-border ACH or international ACH data or geographies. In addition, not all OCC-supervised institutions may initiate/send or receive international wires or ACH transactions through a Federal Reserve Bank.

The OCC plans to collect the requested data using an XML form or other prescribed form submitted through the OCC BankNet system. The OCC plans to provide a schema (XML or otherwise) to institutions in advance of the required submission and also provide a window for institutions to submit test files and receive feedback. Additionally, the OCC utilizes secure data portals to communicate with and receive data from all OCC-supervised institutions. The OCC does not plan to collect personally identifiable information for MLR purposes, therefore, it is not expected that the collection would create customer privacy concerns.

The annual filing requirement frequency ties in closely with the OCC's statutory examination cycle requirements because banks should periodically perform risk assessments of their customers, products, services, and geographies for BSA/ML and OFAC sanctions risks purposes. Requesting MLR data less frequently than annually would limit its usefulness for the OCC's BSA/AML/OFAC supervision responsibilities and might also negatively impact the bank's own risk assessment process. Collecting MLR data on an ''as needed'' basis or tying the MLR data collection frequency to a bank's risk profile would not allow for the consistent planning and analysis needed for such data, would lead to inefficiencies, and would diminish the ability of the OCC to assess risks over time and otherwise utilize the data in a meaningful way.

5. Comments on Costs

The OCC invited comment on estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. One commenter stated that the initial implementation (costs) would be substantial and the ultimate data collection system requirements could result in annual burden estimates for large banks exceeding the 2013 (100 hours) and 2016 (80 hours) burden estimates. Another commenter stated that the costs of additional software would outweigh the benefits of time saved in a small institution. One commenter stated that the costs to implement would vary greatly depending on infrastructure, current risk assessment process, and resources.

While there may be a slightly higher burden during the first reporting year, the OCC believes that the data requested for MLR purposes should be readily available and will not require substantial investment in technology or systems to collect and report. The OCC does not require the acquisition of additional software to collect and report MLR data. Some institutions, particularly community banks, collect and organize the data on Excel spreadsheets using existing bank reports received on a daily, weekly, or monthly basis, as the reports become available throughout the period covered by the reporting period. However, larger and more complex institutions may find it helpful to develop an internal reporting system to gather data efficiently across their organizations in a timely and consistent manner for MLR reporting purposes. The OCC provides options for submitting the MLR data including a fully automated online risk summary form. Additionally, the MLR risk summary form online system allows bankers to upload an XML file to complete the form. This XML file must comply with formatting style and validation requirements in order to be accepted into the OCC's secure system. If the file is valid, the risk summary form is pre-populated with the data ready to be submitted to the OCC.

Two commenters stated that the OCC should go through the rulemaking process to gain approval to expand the MLR System to midsize and large banks. The PRA provides the public with two opportunities to comment on a proposed information collection similar to the public comment opportunity afforded by the Administrative Procedure Act for rulemaking actions. Consistent with the PRA, the OCC previously sought comment on this information collection for 60 days and now is seeking additional comment for 30 days. However, a notice of proposed rulemaking is unnecessary. Under 12 U.S.C. 161, the Comptroller has the express authority to require banks to provide special reports as to matters within his jurisdiction. BSA/AML supervision is within the jurisdiction of the OCC as the OCC has the delegated authority from the Department of Treasury's Financial Crimes Enforcement Network (FinCEN) to examine national banks for compliance with the BSA. The OCC also has the authority under 12 U.S.C. 481 to make a thorough examination of all the affairs of a national bank. The MLR is an important part of the OCC's BSA/AML examination processes that falls within this broad grant of authority.

The OCC has decided to expand the MLR reporting requirement to the OCC's midsize, large bank and Federal branches and agencies populations. As discussed above, a notice of proposed rulemaking is not necessary. The OCC previously had OMB approval to include midsize and large banks in the annual data collection, but requested OMB renewal of the data collection in 2010 and 2013 only for community banks. The OCC determined in 2010 and 2013 to collect only community bank data for MLR purposes. Pursuant to OMB requirements, the OCC is requesting renewal of the existing community bank MLR data collection with expansion to midsize and large bank (including Federal branches and agencies).

Comments continue to be invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: August 2, 2016.

Karen Solomon,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2016–18740 Filed 8–5–16; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Sanctions Actions Pursuant to Executive Order 13315, as Amended by Executive Order 13350

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is removing the name of an individual whose property and interests in property have been blocked pursuant to Executive Order 13315 of August 28, 2003, ''Blocking Property of the Former Iraqi Regime, Its Senior Officials and Their Family Members, and Taking Certain Other Actions,'' as amended by Executive Order 13350 of July 30, 2004, from the List of Specially Designated Nationals and Blocked Persons (SDN List).

DATES: The removal of this individual from the SDN List is effective as of April 4, 2016.

FOR FURTHER INFORMATION CONTACT: Associate Director for Global Targeting, tel.: 202/622–2420, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202/622–2490, Assistant Director for Licensing, tel.: 202/622–2480, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202/622–2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

The SDN List and additional information concerning OFAC sanctions programs are available from OFAC's Web site (*www.treasury.gov/ofac*). Certain general information pertaining to OFAC's sanctions programs is also available via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

Notice of OFAC Actions

On April 4, 2016, OFAC determined that circumstances no longer warrant the inclusion of the following individual on OFAC's SDN list, and that this individual is no longer subject to the blocking provisions of Section 1(b) of Executive Order 13315, as amended by Executive Order 13350:

- AL–JANABI, Nabil Abdullah, Beirut, Lebanon; DOB 14 Aug 1942; POB Baghdad, Iraq; Passport H101901/1 (Iraq) (individual) [IRAQ2]

Dated: April 4, 2016.

Andrea Gacki,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2016–18696 Filed 8–5–16; 8:45 am]

BILLING CODE 4810–AL–P

FEDERAL REGISTER

Vol. 81 Monday,
No. 152 August 8, 2016

Part II

Department of Agriculture

Forest Service

36 CFR Part 242

Department of the Interior

Fish and Wildlife Service

50 CFR Part 100

Subsistence Management Regulations for Public Lands in Alaska—2016–17 and 2017–18 Subsistence Taking of Wildlife Regulations; Final Rule

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

[Docket No. FWS–R7–SM–2014–0062; FXFR13350700640–167–FF07J00000; FBMS #4500094243]

RIN 1018–BA39

Subsistence Management Regulations for Public Lands in Alaska—2016–17 and 2017–18 Subsistence Taking of Wildlife Regulations

AGENCY: Forest Service, Agriculture; Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This final rule establishes regulations for seasons, harvest limits, and methods and means related to the taking of wildlife for subsistence uses in Alaska for the 2016–17 and 2017–18 regulatory years. The Federal Subsistence Board (Board) completes the biennial process of revising subsistence hunting and trapping regulations in even-numbered years and subsistence fishing and shellfish regulations in odd-numbered years; public proposal and review processes take place during the preceding year. The Board also addresses customary and traditional use determinations during the applicable biennial cycle. This rule also revises wildlife customary and traditional use determinations.

DATES: This rule is effective August 3, 2016.

ADDRESSES: The Board meeting transcripts are available for review at the Office of Subsistence Management, 1011 East Tudor Road, Mail Stop 121, Anchorage, AK 99503, or on the Office of Subsistence Management Web site (*https://www.doi.gov/subsistence*).

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Eugene R. Peltola, Jr., Office of Subsistence Management; (907) 786–3888 or *subsistence@fws.gov*. For questions specific to National Forest System lands, contact Thomas Whitford, Regional Subsistence Program Leader, USDA, Forest Service, Alaska Region; (907) 743–9461 or *twhitford@fs.fed.us*.

SUPPLEMENTARY INFORMATION:

Background

Under Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126), the Secretary of the Interior and the Secretary of Agriculture (Secretaries) jointly implement the Federal Subsistence Management Program. This program provides a preference for take of fish and wildlife resources for subsistence uses on Federal public lands and waters in Alaska. The Secretaries published temporary regulations to carry out this program in the **Federal Register** on June 29, 1990 (55 FR 27114), and published final regulations in the **Federal Register** on May 29, 1992 (57 FR 22940). The Program has subsequently amended these regulations a number of times. Because this program is a joint effort between Interior and Agriculture, these regulations are located in two titles of the Code of Federal Regulations (CFR): Title 36, ''Parks, Forests, and Public Property,'' and Title 50, ''Wildlife and Fisheries,'' at 36 CFR 242.1–242.28 and 50 CFR 100.1–100.28, respectively. The regulations contain subparts as follows: Subpart A, General Provisions; Subpart B, Program Structure; Subpart C, Board Determinations; and Subpart D, Subsistence Taking of Fish and Wildlife.

Consistent with subpart B of these regulations, the Secretaries established a Federal Subsistence Board to administer the Federal Subsistence Management Program. The Board comprises:

- A Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture;
- The Alaska Regional Director, U.S. Fish and Wildlife Service;
- The Alaska Regional Director, U.S. National Park Service;
- The Alaska State Director, U.S. Bureau of Land Management;
- The Alaska Regional Director, U.S. Bureau of Indian Affairs;
- The Alaska Regional Forester, U.S. Forest Service; and
- Two public members appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture.

Through the Board, these agencies participate in the development of regulations for subparts C and D, which, among other things, set forth program eligibility and specific harvest seasons and limits.

In administering the program, the Secretaries divided Alaska into 10 subsistence resource regions, each of which is represented by a Regional Advisory Council. The Regional Advisory Councils provide a forum for rural residents with personal knowledge of local conditions and resource requirements to have a meaningful role in the subsistence management of fish and wildlife on Federal public lands in Alaska. The Council members represent varied geographical, cultural, and user interests within each region.

The Board addresses customary and traditional use determinations during the applicable biennial cycle. Section ____.24 (customary and traditional use determinations) was originally published in the **Federal Register** on May 29, 1992 (57 FR 22940). The regulations at 36 CFR 242.4 and 50 CFR 100.4 define ''customary and traditional use'' as ''a long-established, consistent pattern of use, incorporating beliefs and customs which have been transmitted from generation to generation. . . .'' Since 1992, the Board has made a number of customary and traditional use determinations at the request of affected subsistence users. Those modifications, along with some administrative corrections, were published in the **Federal Register** as follows:

MODIFICATIONS TO § ____.24

Federal Register citation	Date of publication	Rule made changes to the following provisions of ____.24
59 FR 27462	May 27, 1994	Wildlife and Fish/Shellfish.
59 FR 51855	October 13, 1994	Wildlife and Fish/Shellfish.
60 FR 10317	February 24, 1995	Wildlife and Fish/Shellfish.
61 FR 39698	July 30, 1996	Wildlife and Fish/Shellfish.
62 FR 29016	May 29, 1997	Wildlife and Fish/Shellfish.
63 FR 35332	June 29, 1998	Wildlife and Fish/Shellfish.
63 FR 46148	August 28, 1998	Wildlife and Fish/Shellfish.
64 FR 1276	January 8, 1999	Fish/Shellfish.
64 FR 35776	July 1, 1999	Wildlife.

MODIFICATIONS TO § ____.24—Continued

Federal Register citation	Date of publication	Rule made changes to the following provisions of ____.24
65 FR 40730	June 30, 2000	Wildlife.
66 FR 10142	February 13, 2001	Fish/Shellfish.
66 FR 33744	June 25, 2001	Wildlife.
67 FR 5890	February 7, 2002	Fish/Shellfish.
67 FR 43710	June 28, 2002	Wildlife.
68 FR 7276	February 12, 2003	Fish/Shellfish.
69 FR 5018	February 3, 2004	Fish/Shellfish.
69 FR 40174	July 1, 2004	Wildlife.
70 FR 13377	March 21, 2005	Fish/Shellfish.
70 FR 36268	June 22, 2005	Wildlife.
71 FR 15569	March 29, 2006	Fish/Shellfish.
71 FR 37642	June 30, 2006	Wildlife.
72 FR 12676	March 16, 2007	Fish/Shellfish.
72 FR 73426	December 27, 2007	Wildlife/Fish.
73 FR 35726	June 26, 2008	Wildlife.
74 FR 14049	March 30, 2009	Fish/Shellfish.
75 FR 37918	June 30, 2010	Wildlife.
76 FR 12564	March 8, 2011	Fish/Shellfish.
77 FR 35482	June 13, 2012	Wildlife.
79 FR 35232	June 19, 2014	Wildlife.

Current Rule

The Departments published a proposed rule on January 14, 2015 (80 FR 1868), to amend the wildlife sections of subparts C and D of 36 CFR 242 and 50 CFR 100. The proposed rule opened a comment period, which closed on March 25, 2015. The Departments advertised the proposed rule by mail, email, Web page, social media, radio, and newspaper. During that period, the Councils met and, in addition to other Council business, generated proposals and received suggestions for proposals from the public. The Board received a total of 67 proposals for changes to subparts C and D. After the comment period closed, the Board prepared a booklet describing the proposals and distributed it to the public. The proposals were also available online. The public then had an additional 45 days in which to comment on the proposals for changes to the regulations.

The 10 Regional Advisory Councils met again, received public comments, and formulated their recommendations to the Board on proposals for their respective regions. The Councils had a substantial role in reviewing the proposed rule and making recommendations for the final rule. Moreover, a Council Chair, or a designated representative, presented each Council's recommendations at the Board meeting on April 12–14, 2016. These final regulations reflect Board review and consideration of Regional Advisory Council recommendations, Tribal and Alaska Native corporation consultations, and public comments. The public received extensive opportunity to review and comment on all changes.

Of the 67 valid proposals, 1 was withdrawn by the proponent, 30 were on the Board's regular (non-consensus) agenda, and 36 were on the consensus agenda. The consensus agenda is made up of proposals for which there is agreement among the affected Councils, a majority of the Interagency Staff Committee, and the Alaska Department of Fish and Game concerning a proposed regulatory action. Anyone may request that the Board remove a proposal from the consensus agenda and place it on the regular agenda. The Board votes en masse on the consensus agenda after deliberation and action on all other proposals. Of the proposals on the consensus agenda, the Board adopted 17; adopted 7 with modification; took no action on 2; and rejected 10. Analysis and justification for the action taken on each proposal on the consensus agenda are available for review at the Office of Subsistence Management, 1011 East Tudor Road, Mail Stop 121, Anchorage, Alaska 99503, or on the Federal Subsistence Management Programs Web site (*http://www.doi.gov/subsistence/index.cfm*) or at *http://www.regulations.gov*. Of the proposals on the regular agenda, the Board adopted 6; adopted 14 with modification; rejected 1; and took no action on 9.

Summary of Non-Consensus Proposals Rejected or No Action Taken by the Board

The Board rejected or took no action on 10 non-consensus proposals. The rejected proposals were recommended for rejection by one or more of the Councils.

The Board took no action on nine proposals to revise season dates and harvest limits in Units 21, 22, 23, 24, 25, and 26 for caribou based on its action on a similar proposal.

The Board rejected a proposal to lift a closure to non-Federally qualified users in Unit 22E for moose. This proposal was determined to be detrimental to the satisfaction of subsistence needs.

Summary of Non-Consensus Proposals Adopted by the Board

The Board adopted or adopted with modification 20 non-consensus proposals. Modifications were suggested by the affected Council(s), developed during the analysis process, suggested during Tribal and Alaska Native corporation consultations, or developed during the Board's public deliberations. All of the adopted proposals were recommended for adoption by at least one of the Councils.

The Board adopted a proposal with modification to allow the use of firearms to harvest beaver under trapping regulations in Units 1–5.

The Board adopted a proposal with modification to extend the season for deer in Unit 2.

The Board adopted a proposal with modification to restrict the trapping season for martin on Kuiu Island in Unit 3.

The Board adopted with modification a proposal to revise the customary and traditional use determination to include residents of Unit 6D for moose in Unit 6D.

The Board adopted a proposal to create a late-season hunt and increase the harvest limit for deer in Unit 6D.

The Board adopted a proposal with modification to revise the season dates and permit requirements for black bear in Unit 6D.

The Board adopted a proposal with modification to revise the permit requirements and season dates for moose in Unit 9C.

The Board adopted a proposal with modification to establish a ''may be announced'' season and lift the closure for caribou in Units 9C and 9E.

The Board adopted a proposal with modification to revise the harvest limit for sheep in Unit 11.

The Board adopted a proposal with modification to revise the Ahtna Cultural and Educational permit for moose and caribou in Unit 13.

The Board adopted a proposal with modification to revise season dates and harvest limit for caribou in portions of Units 17A and 17C.

The Board adopted a proposal to allow same-day airborne harvest of caribou in portions of Units 17A and 17C.

The Board adopted a proposal to allow the use of artificial light to take black and brown bears in Unit 18.

The Board adopted a proposal with modification to revise season dates and harvest limits for caribou in Units 21D, 22, 23, 24, 26A, and 26B.

The Board adopted a proposal to revise the hunt area descriptor and change the season dates and harvest limit for brown bear in portions of Units 22C and 22D.

The Board adopted a proposal with modification to allow the use of snowmachines to position animals in the take of caribou, wolf, and wolverine on BLM managed lands in Unit 23.

The Board adopted a proposal with modification to establish a season for musk ox in a portion of Unit 23.

The Board adopted two proposals with modification to revise the hunt area descriptors and the delegated authority for the local land manager for sheep in Units 23 and 23 remainder.

The Board adopted a proposal to allow the use of artificial light to take black bear in Units 24A, 24B, and 24C.

The Board adopted a proposal with modification to revise the harvest limit for sheep in Units 24A and 24B.

The Board adopted a proposal to create a new hunt area descriptor and change the season dates for moose in Unit 24B remainder.

These final regulations reflect Board review and consideration of Regional Advisory Council recommendations, Tribal and Alaska Native corporation consultations, and public comments. Because this rule concerns public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical text will be incorporated into 36 CFR 242 and 50 CFR 100.

Conformance With Statutory and Regulatory Authorities

Administrative Procedure Act Compliance

The Board has provided extensive opportunity for public input and involvement in compliance with Administrative Procedure Act requirements, including publishing a proposed rule in the **Federal Register**, participation in multiple Regional Council meetings, additional public review and comment on all proposals for regulatory change, and opportunity for additional public comment during the Board meeting prior to deliberation. Additionally, an administrative mechanism exists (and has been used by the public) to request reconsideration of the Board's decision on any particular proposal for regulatory change (36 CFR 242.20 and 50 CFR 100.20). Therefore, the Board believes that sufficient public notice and opportunity for involvement have been given to affected persons regarding Board decisions.

In the more than 25 years that the Program has been operating, no benefit to the public has been demonstrated by delaying the effective date of the subsistence regulations. A lapse in regulatory control could affect the continued viability of fish or wildlife populations and future subsistence opportunities for rural Alaskans, and would generally fail to serve the overall public interest. Therefore, the Board finds good cause pursuant to 5 U.S.C. 553(d)(3) to make this rule effective upon the date set forth in **DATES** to ensure continued operation of the subsistence program.

National Environmental Policy Act Compliance

A Draft Environmental Impact Statement that described four alternatives for developing a Federal Subsistence Management Program was distributed for public comment on October 7, 1991. The Final Environmental Impact Statement (FEIS) was published on February 28, 1992. The Record of Decision (ROD) on Subsistence Management for Federal Public Lands in Alaska was signed April 6, 1992. The selected alternative in the FEIS (Alternative IV) defined the administrative framework of an annual regulatory cycle for subsistence regulations.

The following **Federal Register** documents pertain to this rulemaking:

SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA, SUBPARTS A, B, AND C: FEDERAL REGISTER DOCUMENTS PERTAINING TO THE FINAL RULE

Federal Register citation	Date of publication	Category	Details
57 FR 22940	May 29, 1992	Final Rule	''Subsistence Management Regulations for Public Lands in Alaska; Final Rule'' was published in the **Federal Register**.
64 FR 1276	January 8, 1999	Final Rule	Amended the regulations to include subsistence activities occurring on inland navigable waters in which the United States has a reserved water right and to identify specific Federal land units where reserved water rights exist. Extended the Federal Subsistence Board's management to all Federal lands selected under the Alaska Native Claims Settlement Act and the Alaska Statehood Act and situated within the boundaries of a Conservation System Unit, National Recreation Area, National Conservation Area, or any new national forest or forest addition, until conveyed to the State of Alaska or to an Alaska Native Corporation. Specified and clarified the Secretaries' authority to determine when hunting, fishing, or trapping activities taking place in Alaska off the public lands interfere with the subsistence priority.

SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA, SUBPARTS A, B, AND C: FEDERAL REGISTER DOCUMENTS PERTAINING TO THE FINAL RULE—Continued

Federal Register citation	Date of publication	Category	Details
66 FR 31533	June 12, 2001	Interim Rule	Expanded the authority that the Board may delegate to agency field officials and clarified the procedures for enacting emergency or temporary restrictions, closures, or openings.
67 FR 30559	May 7, 2002	Final Rule	Amended the operating regulations in response to comments on the June 12, 2001, interim rule. Also corrected some inadvertent errors and oversights of previous rules.
68 FR 7703	February 18, 2003	Direct Final Rule	Clarified how old a person must be to receive certain subsistence use permits and removed the requirement that Regional Councils must have an odd number of members.
68 FR 23035	April 30, 2003	Affirmation of Direct Final Rule.	Because no adverse comments were received on the direct final rule (67 FR 30559), the direct final rule was adopted.
69 FR 60957	October 14, 2004	Final Rule	Clarified the membership qualifications for Regional Advisory Council membership and relocated the definition of ''regulatory year'' from subpart A to subpart D of the regulations.
70 FR 76400	December 27, 2005	Final Rule	Revised jurisdiction in marine waters and clarified jurisdiction relative to military lands.
71 FR 49997	August 24, 2006	Final Rule	Revised the jurisdiction of the subsistence program by adding submerged lands and waters in the area of Makhnati Island, near Sitka, AK. This allowed subsistence users to harvest marine resources in this area under seasons, harvest limits, and methods specified in the regulations.
72 FR 25688	May 7, 2007	Final Rule	Revised nonrural determinations.
75 FR 63088	October 14, 2010	Final Rule	Amended the regulations for accepting and addressing special action requests and the role of the Regional Advisory Councils in the process.
76 FR 56109	September 12, 2011	Final Rule	Revised the composition of the Federal Subsistence Board by expanding the Board by two public members who possess personal knowledge of and direct experience with subsistence uses in rural Alaska.
77 FR 12477	March 1, 2012	Final Rule	Extended the compliance date for the final rule (72 FR 25688) that revised nonrural determinations until the Secretarial program review is complete or in 5 years, whichever comes first.
80 FR 68249	November 4, 2015	Final Rule	Revised the nonrural determination process and allowed the Federal Subsistence Board to define which communities and areas are nonrural.

A 1997 environmental assessment dealt with the expansion of Federal jurisdiction over fisheries and is available at the office listed under **FOR FURTHER INFORMATION CONTACT**. The Secretary of the Interior, with concurrence of the Secretary of Agriculture, determined that expansion of Federal jurisdiction does not constitute a major Federal action significantly affecting the human environment and, therefore, signed a Finding of No Significant Impact.

Section 810 of ANILCA

An ANILCA section 810 analysis was completed as part of the FEIS process on the Federal Subsistence Management Program. The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. The final section 810 analysis determination appeared in the April 6, 1992, ROD and concluded that the Program, under Alternative IV with an annual process for setting subsistence regulations, may have some local impacts on subsistence uses, but will not likely restrict subsistence uses significantly.

During the subsequent environmental assessment process for extending fisheries jurisdiction, an evaluation of the effects of this rule was conducted in accordance with section 810. That evaluation also supported the Secretaries' determination that the rule will not reach the ''may significantly restrict'' threshold that would require notice and hearings under ANILCA section 810(a).

Paperwork Reduction Act of 1995 (PRA)

An agency may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. This rule does not contain any new collections of information that require OMB approval. OMB has reviewed and approved the collections of information associated with the subsistence regulations at 36 CFR part 242 and 50 CFR part 100, and assigned OMB Control Number 1018–0075, which expires June 30, 2019.

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open

exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. In general, the resources to be harvested under this rule are already being harvested and consumed by the local harvester and do not result in an additional dollar benefit to the economy. However, we estimate that two million pounds of meat are harvested by subsistence users annually and, if given an estimated dollar value of $3.00 per pound, this amount would equate to about $6 million in food value Statewide. Based upon the amounts and values cited above, the Departments certify that this rulemaking will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

Under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 *et seq.*), this rule is not a major rule. It does not have an effect on the economy of $100 million or more, will not cause a major increase in costs or prices for consumers, and does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Executive Order 12630

Title VIII of ANILCA requires the Secretaries to administer a subsistence priority on public lands. The scope of this Program is limited by definition to certain public lands. Likewise, these regulations have no potential takings of private property implications as defined by Executive Order 12630.

Unfunded Mandates Reform Act

The Secretaries have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.,* that this rulemaking will not impose a cost of $100 million or more in any given year on local or State governments or private entities. The implementation of this rule is by Federal agencies, and there is no cost imposed on any State or local entities or tribal governments.

Executive Order 12988

The Secretaries have determined that these regulations meet the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988, regarding civil justice reform.

Executive Order 13132

In accordance with Executive Order 13132, the rule does not have sufficient Federalism implications to warrant the preparation of a Federalism summary impact statement. Title VIII of ANILCA precludes the State from exercising subsistence management authority over fish and wildlife resources on Federal lands unless it meets certain requirements.

Executive Order 13175

The Alaska National Interest Lands Conservation Act, Title VIII, does not provide specific rights to tribes for the subsistence taking of wildlife, fish, and shellfish. However, the Board provided Federally recognized Tribes and Alaska Native corporations opportunities to consult on this rule. Consultation with Alaska Native corporations are based on Public Law 108–199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108–447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which provides that: ''The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175.''

The Secretaries, through the Board, provided a variety of opportunities for consultation: Commenting on proposed changes to the existing rule; engaging in dialogue at the Regional Council meetings; engaging in dialogue at the Board's meetings; and providing input in person, by mail, email, or phone at any time during the rulemaking process.

On April 12, 2016, the Board provided Federally recognized Tribes and Alaska Native Corporations a specific opportunity to consult on this rule prior to the start of its public regulatory meeting. Federally recognized Tribes and Alaska Native Corporations were notified by mail and telephone and were given the opportunity to attend in person or via teleconference.

Executive Order 13211

This Executive Order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. However, this rule is not a significant regulatory action under E.O. 13211, affecting energy supply, distribution, or use, and no Statement of Energy Effects is required.

Drafting Information

Theo Matuskowitz drafted these regulations under the guidance of Eugene R. Peltola, Jr. of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Additional assistance was provided by

- Daniel Sharp, Alaska State Office, Bureau of Land Management;
- Mary McBurney, Alaska Regional Office, National Park Service;
- Dr. Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs;
- Trevor T. Fox, Alaska Regional Office, U.S. Fish and Wildlife Service; and
- Thomas Whitford, Alaska Regional Office, U.S. Forest Service.

List of Subjects

36 CFR Part 242

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

50 CFR Part 100

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

Regulation Promulgation

For the reasons set out in the preamble, the Federal Subsistence Board amends title 36, part 242, and title 50, part 100, of the Code of Federal Regulations, as set forth below.

PART ____—SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

■ 1. The authority citation for both 36 CFR part 242 and 50 CFR part 100 continues to read as follows:

Authority: 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

Subpart C—Board Determinations

■ 2. In subpart C of 36 CFR part 242 and 50 CFR part 100, § ____.24(a)(1) is revised to read as follows:

§ ____.24 Customary and traditional use determinations.

(a) * * *

(1) *Wildlife determinations.* The rural Alaska residents of the listed communities and areas have a customary and traditional use of the specified species on Federal public lands within the listed areas:

Area	Species	Determination
Unit 1C	Black Bear	Residents of Units 1C, 1D, 3, Hoonah, Pelican, Point Baker, Sitka, and Tenakee Springs.
Unit 1A	Brown Bear	Residents of Unit 1A, excluding residents of Hyder.
Unit 1B	Brown Bear	Residents of Unit 1A, Petersburg, and Wrangell, excluding residents of Hyder.
Unit 1C	Brown Bear	Residents of Unit 1C, Haines, Hoonah, Kake, Klukwan, Skagway, and Wrangell, excluding residents of Gustavus.
Unit 1D	Brown Bear	Residents of Unit 1D.
Unit 1A	Deer	Residents of Units 1A and 2.
Unit 1B	Deer	Residents of Units 1A, 1B, 2, and 3.
Unit 1C	Deer	Residents of Units 1C, 1D, Hoonah, Kake, and Petersburg.
Unit 1D	Deer	No Federal subsistence priority.
Unit 1B	Goat	Residents of Units 1B and 3.
Unit 1C	Goat	Residents of Haines, Kake, Klukwan, Petersburg, and Hoonah.
Unit 1B	Moose	Residents of Units 1, 2, 3, and 4.
Unit 1C	Moose	Residents of Units 1, 2, 3, 4, and 5.
Unit 1D	Moose	Residents of Unit 1D.
Unit 2	Deer	Residents of Units 1A, 2, and 3.
Unit 3	Deer	Residents of Units 1B, 3, Port Alexander, Port Protection, Pt. Baker, and Meyers Chuck.
Unit 3, Wrangell and Mitkof Islands	Moose	Residents of Units 1B, 2, and 3.
Unit 4	Brown Bear	Residents of Unit 4 and Kake.
Unit 4	Deer	Residents of Unit 4, Kake, Gustavus, Haines, Petersburg, Pt. Baker, Klukwan, Port Protection, Wrangell, and Yakutat.
Unit 4	Goat	Residents of Sitka, Hoonah, Tenakee, Pelican, Funter Bay, Angoon, Port Alexander, and Elfin Cove.
Unit 5	Black Bear	Residents of Unit 5A.
Unit 5	Brown Bear	Residents of Yakutat.
Unit 5	Deer	Residents of Yakutat.
Unit 5	Goat	Residents of Unit 5A
Unit 5	Moose	Residents of Unit 5A.
Unit 5	Wolf	Residents of Unit 5A.
Unit 6A	Black Bear	Residents of Yakutat and Units 6C and 6D, excluding residents of Whittier.
Unit 6, remainder	Black Bear	Residents of Units 6C and 6D, excluding residents of Whittier.
Unit 6	Brown Bear	No Federal subsistence priority.
Unit 6A	Goat	Residents of Units 5A, 6C, Chenega Bay, and Tatitlek.
Unit 6C and Unit 6D	Goat	Residents of Units 6C and D.
Unit 6A	Moose	Residents of Units 5A, 6A, 6B, and 6C.
Unit 6B and Unit 6C	Moose	Residents of Units 6A, 6B, and 6C.
Unit 6D	Moose	Residents of Unit 6D.
Unit 6A	Wolf	Residents of Units 5A, 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 6, remainder	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 7	Brown Bear	No Federal subsistence priority.
Unit 7	Caribou	Residents of Cooper Landing and Hope.
Unit 7, Brown Mountain hunt area	Goat	Residents of Port Graham and Nanwalek.
Unit 7	Moose	Residents of Chenega Bay, Cooper Landing, Hope, and Tatitlek.
Unit 7	Sheep	No Federal subsistence priority.
Unit 7	Ruffed Grouse	No Federal subsistence priority.
Unit 8	Brown Bear	Residents of Old Harbor, Akhiok, Larsen Bay, Karluk, Ouzinkie, and Port Lions.
Unit 8	Deer	Residents of Unit 8.
Unit 8	Elk	Residents of Unit 8.
Unit 8	Goat	No Federal subsistence priority.
Unit 9D	Bison	No Federal subsistence priority.
Unit 9A and Unit 9B	Black Bear	Residents of Units 9A, 9B, 17A, 17B, and 17C.
Unit 9A	Brown Bear	Residents of Pedro Bay.
Unit 9B	Brown Bear	Residents of Unit 9B.
Unit 9C	Brown Bear	Residents of Unit 9C, Igiugig, Kakhonak, and Levelock.

Area	Species	Determination
Unit 9D	Brown Bear	Residents of Units 9D and 10 (Unimak Island).
Unit 9E	Brown Bear	Residents of Chignik, Chignik Lagoon, Chignik Lake, Egegik, Ivanof Bay, Perryville, Pilot Point, Ugashik, and Port Heiden/Meshik.
Unit 9A and Unit 9B	Caribou	Residents of Units 9B, 9C, and 17.
Unit 9C	Caribou	Residents of Units 9B, 9C, 17, and Egegik.
Unit 9D	Caribou	Residents of Unit 9D, Akutan, and False Pass.
Unit 9E	Caribou	Residents of Units 9B, 9C, 9E, 17, Nelson Lagoon, and Sand Point.
Unit 9A, Unit 9B, Unit 9C and Unit 9E	Moose	Residents of Units 9A, 9B, 9C, and 9E.
Unit 9D	Moose	Residents of Cold Bay, False Pass, King Cove, Nelson Lagoon, and Sand Point.
Unit 9B	Sheep	Residents of Iliamna, Newhalen, Nondalton, Pedro Bay, Port Alsworth, and Lake Clark National Park and Preserve within Unit 9B.
Unit 9	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 9A, Unit 9B, Unit 9C, and Unit 9E	Beaver	Residents of Units 9A, 9B, 9C, 9E, and 17.
Unit 10 Unimak Island	Brown Bear	Residents of Units 9D and 10 (Unimak Island).
Unit 10 Unimak Island	Caribou	Residents of Akutan, False Pass, King Cove, and Sand Point.
Unit 10, remainder	Caribou	No Federal subsistence priority.
Unit 10	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 11	Bison	No Federal subsistence priority.
Unit 11, north of the Sanford River	Black Bear	Residents of Chistochina, Chitina, Copper Center, Gakona, Glennallen, Gulkana, Kenny Lake, Mentasta Lake, Slana, Tazlina, Tonsina, and Units 11 and 12.
Unit 11, remainder	Black Bear	Residents of Chistochina, Chitina, Copper Center, Gakona, Glennallen, Gulkana, Kenny Lake, Mentasta Lake, Nabesna Road (mileposts 25–46), Slana, Tazlina, Tok Cutoff Road (mileposts 79–110), Tonsina, and Unit 11.
Unit 11, north of the Sanford River	Brown Bear	Residents of Chistochina, Chitina, Copper Center, Gakona, Glennallen, Gulkana, Kenny Lake, Mentasta Lake, Slana, Tazlina, Tonsina, and Units 11 and 12.
Unit 11, remainder	Brown Bear	Residents of Chistochina, Chitina, Copper Center, Gakona, Glennallen, Gulkana, Kenny Lake, Mentasta Lake, Nabesna Road (mileposts 25–46), Slana, Tazlina, Tok Cutoff Road (mileposts 79–110), Tonsina, and Unit 11.
Unit 11, north of the Sanford River	Caribou	Residents of Units 11, 12, 13A–D, Chickaloon, Healy Lake, and Dot Lake.
Unit 11, remainder	Caribou	Residents of Units 11, 13A–D, and Chickaloon.
Unit 11	Goat	Residents of Unit 11, Chitina, Chistochina, Copper Center, Gakona, Glennallen, Gulkana, Kenny Lake, Mentasta Lake, Slana, Tazlina, Tonsina, and Dot Lake, Tok Cutoff Road (mileposts 79–110 Mentasta Pass), and Nabesna Road (mileposts 25–46).
Unit 11, north of the Sanford River	Moose	Residents of Units 11, 12, 13A–D, Chickaloon, Healy Lake, and Dot Lake.
Unit 11, remainder	Moose	Residents of Units 11, 13A–D, and Chickaloon.
Unit 11, north of the Sanford River	Sheep	Residents of Unit 12, Chistochina, Chitina, Copper Center, Dot Lake, Gakona, Glennallen, Gulkana, Healy Lake, Kenny Lake, Mentasta Lake, Slana, McCarthy/South Wrangell/South Park, Tazlina, Tonsina, residents along the Nabesna Road—Milepost 0–46 (Nabesna Road), and residents along the McCarthy Road—Milepost 0–62 (McCarthy Road).
Unit 11, remainder	Sheep	Residents of Chisana, Chistochina, Chitina, Copper Center, Gakona, Glennallen, Gulkana, Kenny Lake, Mentasta Lake, Slana, McCarthy/South Wrangell/South Park, Tazlina, Tonsina, residents along the Tok Cutoff—Milepost 79–110 (Mentasta Pass), residents along the Nabesna Road—Milepost 0–46 (Nabesna Road), and residents along the McCarthy Road—Milepost 0–62 (McCarthy Road).
Unit 11	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 11	Grouse (Spruce, Blue, Ruffed and Sharp-tailed).	Residents of Units 11, 12, 13, and Chickaloon, 15, 16, 20D, 22, and 23.

Area	Species	Determination
Unit 11	Ptarmigan (Rock, Willow and White-tailed).	Residents of Units 11, 12, 13, Chickaloon, 15, 16, 20D, 22, and 23.
Unit 12	Brown Bear	Residents of Unit 12, Dot Lake, Chistochina, Gakona, Mentasta Lake, and Slana.
Unit 12	Caribou	Residents of Unit 12, Chistochina, Dot Lake, Healy Lake, and Mentasta Lake.
Unit 12, that portion within the Tetlin National Wildlife Refuge and those lands within the Wrangell-St. Elias National Preserve north and east of a line formed by the Pickerel Lake Winter Trail from the Canadian border to Pickerel Lake.	Moose	Residents of Units 12 and 13C, Dot Lake, and Healy Lake.
Unit 12, that portion east of the Nabesna River and Nabesna Glacier, and south of the Winter Trail running southeast from Pickerel Lake to the Canadian border.	Moose	Residents of Units 12 and 13C and Healy Lake.
Unit 12, remainder	Moose	Residents of Unit 11 north of 62nd parallel, Units 12 and 13A–D, Chickaloon, Dot Lake, and Healy Lake.
Unit 12	Sheep	Residents of Unit 12, Chistochina, Dot Lake, Healy Lake, and Mentasta Lake.
Unit 12	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 13	Brown Bear	Residents of Unit 13 and Slana.
Unit 13B	Caribou	Residents of Units 11, 12 (along the Nabesna Road and Tok Cutoff Road, mileposts 79–110), 13, 20D (excluding residents of Fort Greely), and Chickaloon.
Unit 13C	Caribou	Residents of Units 11, 12 (along the Nabesna Road and Tok Cutoff Road, mileposts 79–110), 13, Chickaloon, Dot Lake, and Healy Lake.
Unit 13A and Unit 13D	Caribou	Residents of Units 11, 12 (along the Nabesna Road), 13, and Chickaloon.
Unit 13E	Caribou	Residents of Units 11, 12 (along the Nabesna Road), 13, Chickaloon, McKinley Village, and the area along the Parks Highway between mileposts 216 and 239 (excluding residents of Denali National Park headquarters).
Unit 13D	Goat	No Federal subsistence priority.
Unit 13A and Unit 13D	Moose	Residents of Unit 13, Chickaloon, and Slana.
Unit 13B	Moose	Residents of Units 13 and 20D (excluding residents of Fort Greely) and Chickaloon and Slana.
Unit 13C	Moose	Residents of Units 12 and 13, Chickaloon, Healy Lake, Dot Lake, and Slana.
Unit 13E	Moose	Residents of Unit 13, Chickaloon, McKinley Village, Slana, and the area along the Parks Highway between mileposts 216 and 239 (excluding residents of Denali National Park headquarters).
Unit 13D	Sheep	No Federal subsistence priority.
Unit 13	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 13	Grouse (Spruce, Blue, Ruffed Sharp-tailed).	Residents of Units 11, 13, Chickaloon, 15, 16, 20D, 22 and 23.
Unit 13	Ptarmigan (Rock, Willow and White-tailed).	Residents of Units 11, 13, Chickaloon, 15, 16, 20D, 22 and 23.
Unit 14C	Brown Bear	No Federal subsistence priority.
Unit 14	Goat	No Federal subsistence priority.
Unit 14	Moose	No Federal subsistence priority.
Unit 14A and Unit 14C	Sheep	No Federal subsistence priority.
Unit 15A and Unit 15B	Black Bear	Residents of Ninilchik.
Unit 15C	Black Bear	Residents of Ninilchik, Port Graham, and Nanwalek.
Unit 15	Brown Bear	Residents of Ninilchik.
Unit 15A and Unit 15B	Moose	Residents of Cooper Landing, Ninilchik, Nanwalek, Port Graham, and Seldovia.
Unit 15C	Moose	Residents of Ninilchik, Nanwalek, Port Graham, and Seldovia.
Unit 15	Sheep	No Federal subsistence priority.
Unit 15	Ptarmigan (Rock, Willow and White-tailed).	Residents of Unit 15.
Unit 15	Grouse (Spruce)	Residents of Unit 15.
Unit 15	Grouse (Ruffed)	No Federal subsistence priority.
Unit 16B	Black Bear	Residents of Unit 16B.

Area	Species	Determination
Unit 16	Brown Bear	No Federal subsistence priority.
Unit 16A	Moose	No Federal subsistence priority.
Unit 16B	Moose	Residents of Unit 16B.
Unit 16	Sheep	No Federal subsistence priority.
Unit 16	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 16	Grouse (Spruce and Ruffed).	Residents of Units 11, 13, Chickaloon, 15, 16, 20D, 22 and 23.
Unit 16	Ptarmigan (Rock, Willow and White-tailed).	Residents of Units 11, 13, Chickaloon, 15, 16, 20D, 22 and 23.
Unit 17A and that portion of 17B draining into Nuyakuk Lake and Tikchik Lake.	Black Bear	Residents of Units 9A and B, 17, Akiak, and Akiachak.
Unit 17, remainder	Black Bear	Residents of Units 9A and B, and 17.
Unit 17A, those portions north and west of a line beginning from the Unit 18 boundary at the northwestern end of Nenevok Lake, to the southern point of upper Togiak Lake, and northeast towards the northern point of Nuyakuk Lake to the Unit 17A boundary.	Brown Bear	Residents of Unit 17, Akiak, Akiachak, Goodnews Bay, Kwethluk, and Platinum.
Units 17B, beginning at the Unit 17B boundary, those portions north and west of a line running from the southern point of upper Togiak Lake, northeast to the northern point of Nuyakuk Lake, and northeast to the point where the Unit 17 boundary intersects the Shotgun Hills.	Brown Bear	Residents of Unit 17 and Kwethluk.
Unit 17A, remainder	Brown Bear	Residents of Unit 17, Akiak, Akiachak, Goodnews Bay, and Platinum.
Unit 17B, that portion draining into Nuyakuk Lake and Tikchik Lake.	Brown Bear	Residents of Unit 17, Akiak and Akiachak.
Unit 17B, remainder, and Unit 17C	Brown Bear	Residents of Unit 17.
Unit 17A, that portion west of the Izavieknik River, Upper Togiak Lake, Togiak Lake, and the main course of the Togiak River.	Caribou	Residents of Units 9B, 17, Eek, Goodnews Bay, Lime Village, Napakiak, Platinum, Quinhagak, Stony River, and Tuntutuliak.
Unit 17A, that portion north of Togiak Lake that includes Izavieknik River drainages.	Caribou	Residents of Units 9B, 17, Akiak, Akiachak, Lime Village, Stony River, and Tuluksak.
Units 17A and 17B, those portions north and west of a line beginning from the Unit 18 boundary at the northwestern end of Nenevok Lake, to the southern point of upper Togiak Lake, and northeast to the northern point of Nuyakuk Lake, northeast to the point where the Unit 17 boundary intersects the Shotgun Hills.	Caribou	Residents of Units 9B, 17, Kwethluk, Lime Village, and Stony River.
Unit 17B, that portion of Togiak National Wildlife Refuge within Unit 17B.	Caribou	Residents of Units 9B, 17, Akiachak, Akiak, Bethel, Eek, Goodnews Bay, Lime Village, Napakiak, Platinum, Quinhagak, Stony River, Tuluksak, and Tuntutuliak.
Unit 17, remainder	Caribou	Residents of Units 9B, 17, Lime Village, and Stony River.
Units 17A, those portions north and west of a line beginning from the Unit 18 boundary at the northwestern end of Nenevok Lake, to the southern point of upper Togiak Lake, and to the Unit 17A boundary to the northeast towards the northern point of Nuyakuk Lake.	Moose	Residents of Unit 17, Goodnews Bay, Kwethluk, and Platinum.
Unit 17A, that portion north of Togiak Lake that includes Izavieknik River drainages.	Moose	Residents of Unit 17, Akiak, Akiachak, Goodnews Bay, and Platinum.
Unit 17 A, remainder	Moose	Residents of Unit 17, Goodnews Bay and Platinum.
Unit 17B, that portion within the Togiak National Wildlife Refuge.	Moose	Residents of Unit 17, Akiak, Akiachak, Goodnews Baym, Levelock, Nondalton, and Platinum.
Unit 17B, remainder and Unit 17C	Moose	Residents of Unit 17, Nondalton, Levelock, Goodnews Bay, and Platinum.
Unit 17	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 17	Beaver	Residents of Units 9A, 9B, 9C, 9E, and 17.
Unit 18	Black Bear	Residents of Unit 18, Unit 19A living downstream of the Holokuk River, Holy Cross, Stebbins, St. Michael, Twin Hills, and Togiak.
Unit 18	Brown Bear	Residents of Akiachak, Akiak, Eek, Goodnews Bay, Kwethluk, Mountain Village, Napaskiak, Platinum, Quinhagak, St. Marys, and Tuluksak.
Unit 18	Caribou	Residents of Unit 18, Lower Kalskag, Manokotak, Stebbins, St. Michael, Togiak, Twin Hills, and Upper Kalskag.

Area	Species	Determination
Unit 18, that portion of the Yukon River drainage upstream of Russian Mission and that portion of the Kuskokwim River drainage upstream of, but not including, the Tuluksak River drainage.	Moose	Residents of Unit 18, Upper Kalskag, Aniak, and Chuathbaluk.
Unit 18, that portion north of a line from Cape Romanzof to Kusilvak Mountain to Mountain Village, and all drainages north of the Yukon River downstream from Marshall.	Moose	Residents of Unit 18, Lower Kalskag, St. Michael, Stebbins, and Upper Kalskag.
Unit 18, remainder	Moose	Residents of Unit 18, Lower Kalskag, and Upper Kalskag.
Unit 18	Musk ox	No Federal subsistence priority.
Unit 18	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 19C and Unit 19D	Bison	No Federal subsistence priority.
Unit 19A and Unit 19B	Brown Bear	Residents of Units 18 and 19 within the Kuskokwim River drainage upstream from, and including, the Johnson River.
Unit 19C	Brown Bear	No Federal subsistence priority.
Unit 19D	Brown Bear	Residents of Units 19A and D, Tuluksak, and Lower Kalskag.
Unit 19A and Unit 19B	Caribou	Residents of Units 19A and 19B, Unit 18 within the Kuskokwim River drainage upstream from, and including, the Johnson River, and residents of St. Marys, Marshall, Pilot Station, and Russian Mission.
Unit 19C	Caribou	Residents of Unit 19C, Lime Village, McGrath, Nikolai, and Telida.
Unit 19D	Caribou	Residents of Unit 19D, Lime Village, Sleetmute, and Stony River.
Unit 19A and Unit 9B	Moose	Residents of Unit 18 within Kuskokwim River drainage upstream from and including the Johnson River, and residents of Unit 19.
Unit 19B, west of the Kogrukluk River	Moose	Residents of Eek and Quinhagak.
Unit 19C	Moose	Residents of Unit 19.
Unit 19D	Moose	Residents of Unit 19 and Lake Minchumina.
Unit 19	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 20D	Bison	No Federal subsistence priority.
Unit 20F	Black Bear	Residents of Unit 20F, Stevens Village, and Manley Hot Springs.
Unit 20E	Brown Bear	Residents of Unit 12 and Dot Lake.
Unit 20F	Brown Bear	Residents of Unit 20F, Stevens Village, and Manley Hot Springs.
Unit 20A	Caribou	Residents of Cantwell, Nenana, and those domiciled between mileposts 216 and 239 of the Parks Highway, excluding residents of households of the Denali National Park Headquarters.
Unit 20B	Caribou	Residents of Unit 20B, Nenana, and Tanana.
Unit 20C	Caribou	Residents of Unit 20C living east of the Teklanika River, residents of Cantwell, Lake Minchumina, Manley Hot Springs, Minto, Nenana, Nikolai, Tanana, Telida, and those domiciled between mileposts 216 and 239 of the Parks Highway and between mileposts 300 and 309, excluding residents of households of the Denali National Park Headquarters.
Unit 20D and Unit 20E	Caribou	Residents of Units 20D, 20E, 20F, 25, 12 (north of the Wrangell–St. Elias National Park and Preserve), Eureka, Livengood, Manley, and Minto.
Unit 20F	Caribou	Residents of Units 20F and 25D and Manley Hot Springs.
Unit 20A	Moose	Residents of Cantwell, Minto, Nenana, McKinley Village, and the area along the Parks Highway between mileposts 216 and 239, excluding residents of households of the Denali National Park Headquarters.
Unit 20B, Minto Flats Management Area	Moose	Residents of Minto and Nenana.
Unit 20B, remainder	Moose	Residents of Unit 20B, Nenana, and Tanana.

Area	Species	Determination
Unit 20C	Moose	Residents of Unit 20C (except that portion within Denali National Park and Preserve and that portion east of the Teklanika River), Cantwell, Manley Hot Springs, Minto, Nenana, those domiciled between mileposts 300 and 309 of the Parks Highway, Nikolai, Tanana, Telida, McKinley Village, and the area along the Parks Highway between mileposts 216 and 239, excluding residents of households of the Denali National Park Headquarters.
Unit 20D	Moose	Residents of Unit 20D and Tanacross.
Unit 20E	Moose	Residents of Unit 20E, Unit 12 north of the Wrangell-St. Elias National Preserve, Circle, Central, Dot Lake, Healy Lake, and Mentasta Lake.
Unit 20F	Moose	Residents of Unit 20F, Manley Hot Springs, Minto, and Stevens Village.
Unit 20E	Sheep	Residents of Units 20E, 25B, 25C, 25D, and Dot Lake, Healy Lake, Northway, Tanacross, Tetlin, and Tok.
Unit 20F	Wolf	Residents of Unit 20F, Stevens Village, and Manley Hot Springs.
Unit 20, remainder	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 20D	Grouse, (Spruce, Ruffed and Sharp-tailed).	Residents of Units 11, 13, Chickaloon, 15, 16, 20D, 22, and 23.
Unit 20D	Ptarmigan (Rock and Willow).	Residents of Units 11, 13, Chickaloon, 15, 16, 20D, 22, and 23.
Unit 21	Brown Bear	Residents of Units 21 and 23.
Unit 21A	Caribou	Residents of Units 21A, 21D, 21E, Aniak, Chuathbaluk, Crooked Creek, McGrath, and Takotna.
Unit 21B and Unit 21C	Caribou	Residents of Units 21B, 21C, 21D, and Tanana.
Unit 21D	Caribou	Residents of Units 21B, 21C, 21D, and Huslia.
Unit 21E	Caribou	Residents of Units 21A, 21E, Aniak, Chuathbaluk, Crooked Creek, McGrath, and Takotna.
Unit 21A	Moose	Residents of Units 21A, 21E, Takotna, McGrath, Aniak, and Crooked Creek.
Unit 21B and Unit 21C	Moose	Residents of Units 21B, 21C, Tanana, Ruby, and Galena.
Unit 21D	Moose	Residents of Units 21D, Huslia, and Ruby.
Unit 21E, south of a line beginning at the western boundary of Unit 21E near the mouth of Paimiut Slough, extending easterly along the south bank of Paimiut Slough to Upper High Bank, and southeasterly in the direction of Molybdenum Mountain to the juncture of Units 19A, 21A, and 21E.	Moose	Residents of Unit 21E, Aniak, Chuathbaluk, Kalskag, Lower Kalskag, and Russian Mission.
Unit 21E remainder	Moose	Residents of Unit 21E and Russian Mission.
Unit 21	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 22A	Black Bear	Residents of Unit 22A and Koyuk.
Unit 22B	Black Bear	Residents of Unit 22B.
Unit 22C, Unit 22D, and Unit 22E	Black Bear	No Federal subsistence priority.
Unit 22	Brown Bear	Residents of Unit 22.
Unit 22A	Caribou	Residents of Units 21D west of the Koyukuk and Yukon Rivers, 22 (except residents of St. Lawrence Island), 23, 24, Kotlik, Emmonak, Hooper Bay, Scammon Bay, Chevak, Marshall, Mountain Village, Pilot Station, Pitka's Point, Russian Mission, St. Marys, Nunam Iqua, and Alakanuk.
Unit 22, remainder	Caribou	Residents of Units 21D west of the Koyukuk and Yukon Rivers, 22 (excluding residents of St. Lawrence Island), 23, and 24.
Unit 22	Moose	Residents of Unit 22.
Unit 22A	Musk ox	All rural residents.
Unit 22B, west of the Darby Mountains	Musk ox	Residents of Units 22B and 22C.
Unit 22B, remainder	Musk ox	Residents of Unit 22B.
Unit 22C	Musk ox	Residents of Unit 22C.
Unit 22D	Musk ox	Residents of Units 22B, 22C, 22D, and 22E (excluding St. Lawrence Island).
Unit 22E	Musk ox	Residents of Unit 22E (excluding Little Diomede Island).
Unit 22	Wolf	Residents of Units 23, 22, 21D north and west of the Yukon River, and Kotlik.

Area	Species	Determination
Unit 22	Grouse (Spruce)	Residents of Units 11, 13, Chickaloon, 15, 16, 20D, 22, and 23.
Unit 22	Ptarmigan (Rock and Willow).	Residents of Units 11, 13, Chickaloon, 15, 16, 20D, 22, and 23.
Unit 23	Black Bear	Residents of Unit 23, Alatna, Allakaket, Bettles, Evansville, Galena, Hughes, Huslia, and Koyukuk.
Unit 23	Brown Bear	Residents of Units 21 and 23.
Unit 23	Caribou	Residents of Units 21D west of the Koyukuk and Yukon Rivers, Galena, 22, 23, 24 including residents of Wiseman but not including other residents of the Dalton Highway Corridor Management Area, and 26A.
Unit 23	Moose	Residents of Unit 23.
Unit 23, south of Kotzebue Sound and west of and including the Buckland River drainage.	Musk ox	Residents of Unit 23 south of Kotzebue Sound and west of and including the Buckland River drainage.
Unit 23, remainder	Musk ox	Residents of Unit 23 east and north of the Buckland River drainage.
Unit 23	Sheep	Residents of Point Lay and Unit 23 north of the Arctic Circle.
Unit 23	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 23	Grouse (Spruce and Ruffed).	Residents of Units 11, 13, Chickaloon, 15, 16, 20D, 22, and 23.
Unit 23	Ptarmigan (Rock, Willow and White-tailed).	Residents of Units 11, 13, Chickaloon, 15, 16, 20D, 22, and 23.
Unit 24, that portion south of Caribou Mountain, and within the public lands composing or immediately adjacent to the Dalton Highway Corridor Management Area.	Black Bear	Residents of Stevens Village, Unit 24, and Wiseman, but not including any other residents of the Dalton Highway Corridor Management Area.
Unit 24, remainder	Black Bear	Residents of Unit 24 and Wiseman, but not including any other residents of the Dalton Highway Corridor Management Area.
Unit 24, that portion south of Caribou Mountain, and within the public lands composing or immediately adjacent to the Dalton Highway Corridor Management Area.	Brown Bear	Residents of Stevens Village and Unit 24.
Unit 24, remainder	Brown Bear	Residents of Unit 24.
Unit 24	Caribou	Residents of Unit 24, Galena, Kobuk, Koyukuk, Stevens Village, and Tanana.
Unit 24	Moose	Residents of Unit 24, Koyukuk, and Galena.
Unit 24	Sheep	Residents of Unit 24 residing north of the Arctic Circle, Allakaket, Alatna, Hughes, and Huslia.
Unit 24	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 25D	Black Bear	Residents of Unit 25D.
Unit 25D	Brown Bear	Residents of Unit 25D.
Unit 25, remainder	Brown Bear	Residents of Unit 25 and Eagle.
Unit 25A	Caribou	Residents of Units 24A and 25.
Unit 25B and Unit 25C	Caribou	Residents of Units 12 (north of Wrangell-St. Elias National Preserve), 20D, 20E, 20F, and 25.
Unit 25D	Caribou	Residents of Units 20F and 25D and Manley Hot Springs.
Unit 25A	Moose	Residents of Units 25A and 25D.
Unit 25D, west	Moose	Residents of Unit 25D West.
Unit 25D, remainder	Moose	Residents of remainder of Unit 25.
Unit 25A	Sheep	Residents of Arctic Village, Chalkyitsik, Fort Yukon, Kaktovik, and Venetie.
Unit 25B and Unit 25C	Sheep	Residents of Units 20E, 25B, 25C, and 25D.
Unit 25D	Wolf	Residents of Unit 25D.
Unit 25, remainder	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 26	Brown Bear	Residents of Unit 26 (excluding the Prudhoe Bay-Deadhorse Industrial Complex), Anaktuvuk Pass, and Point Hope.
Unit 26A and C	Caribou	Residents of Unit 26, Anaktuvuk Pass, and Point Hope.
Unit 26B	Caribou	Residents of Unit 26, Anaktuvuk Pass, Point Hope, and Unit 24 within the Dalton Highway Corridor Management Area.
Unit 26	Moose	Residents of Unit 26 (excluding the Prudhoe Bay-Deadhorse Industrial Complex), Point Hope, and Anaktuvuk Pass.

Area	Species	Determination
Unit 26A	Musk ox	Residents of Anaktuvuk Pass, Atqasuk, Barrow, Nuiqsut, Point Hope, Point Lay, and Wainwright.
Unit 26B	Musk ox	Residents of Anaktuvuk Pass, Nuiqsut, and Kaktovik.
Unit 26C	Musk ox	Residents of Kaktovik.
Unit 26A	Sheep	Residents of Unit 26, Anaktuvuk Pass, and Point Hope.
Unit 26B	Sheep	Residents of Unit 26, Anaktuvuk Pass, Point Hope, and Wiseman.
Unit 26C	Sheep	Residents of Unit 26, Anaktuvuk Pass, Arctic Village, Chalkyitsik, Fort Yukon, Point Hope, and Venetie.
Unit 26	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.

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Subpart D—Subsistence Taking of Fish and Wildlife

■ 3. In subpart D of 36 CFR part 242 and 50 CFR part 100, § ____.26 is revised to read as follows:

§ ____.26 Subsistence taking of wildlife.

(a) *General taking prohibitions.* You may take wildlife for subsistence uses by any method, except as prohibited in this section or by other Federal statute. Taking wildlife for subsistence uses by a prohibited method is a violation of this part. Seasons are closed unless opened by Federal regulation. Hunting or trapping during a closed season or in an area closed by this part is prohibited.

(b) *Prohibited methods and means.* Except for special provisions found at paragraphs (n)(1) through (26) of this section, the following methods and means of taking wildlife for subsistence uses are prohibited:

(1) Shooting from, on, or across a highway.

(2) Using any poison.

(3) Using a helicopter in any manner, including transportation of individuals, equipment, or wildlife; however, this prohibition does not apply to transportation of an individual, gear, or wildlife during an emergency rescue operation in a life-threatening situation.

(4) Taking wildlife from a motorized land or air vehicle when that vehicle is in motion, or from a motor-driven boat when the boat's progress from the motor's power has not ceased.

(5) Using a motorized vehicle to drive, herd, or molest wildlife.

(6) Using or being aided by use of a machine gun, set gun, or a shotgun larger than 10 gauge.

(7) Using a firearm other than a shotgun, muzzle-loaded rifle, rifle, or pistol using center-firing cartridges for the taking of ungulates, bear, wolves, or wolverine, except that—

(i) An individual in possession of a valid trapping license may use a firearm that shoots rimfire cartridges to take wolves and wolverine; and

(ii) Only a muzzle-loading rifle of .54-caliber or larger, or a .45-caliber muzzle-loading rifle with a 250-grain, or larger, elongated slug may be used to take brown bear, black bear, elk, moose, musk ox, and mountain goat.

(8) Using or being aided by use of a pit, fire, artificial light, radio communication, artificial salt lick, explosive, barbed arrow, bomb, smoke, chemical, conventional steel trap with a jaw spread over 9 inches, or conibear style trap with a jaw spread over 11 inches.

(9) Using a snare, except that an individual in possession of a valid hunting license may use nets and snares to take unclassified wildlife, ptarmigan, grouse, or hares; and individuals in possession of a valid trapping license may use snares to take furbearers.

(10) Using a trap to take ungulates or bear.

(11) Using hooks to physically snag, impale, or otherwise take wildlife; however, hooks may be used as a trap drag.

(12) Using a crossbow to take ungulates, bear, wolf, or wolverine in any area restricted to hunting by bow and arrow only.

(13) Taking of ungulates, bear, wolf, or wolverine with a bow, unless the bow is capable of casting an inch-wide broadhead-tipped arrow at least 175 yards horizontally, and the arrow and broadhead together weigh at least 1 ounce (437.5 grains).

(14) Using bait for taking ungulates, bear, wolf, or wolverine; except you may use bait to take wolves and wolverine with a trapping license, and you may use bait to take black bears and brown bears with a hunting license as authorized in Unit-specific regulations at paragraphs (n)(1) through (26) of this section. Baiting of black bears and brown bears is subject to the following restrictions:

(i) Before establishing a bear bait station, you must register the site with ADF&G;

(ii) When using bait, you must clearly mark the site with a sign reading ''black bear bait station'' that also displays your hunting license number and ADF&G-assigned number;

(iii) You may use only biodegradable materials for bait; you may use only the head, bones, viscera, or skin of legally harvested fish and wildlife for bait;

(iv) You may not use bait within ¼ mile of a publicly maintained road or trail;

(v) You may not use bait within 1 mile of a house or other permanent dwelling, or within 1 mile of a developed campground or developed recreational facility;

(vi) When using bait, you must remove litter and equipment from the bait station site when done hunting;

(vii) You may not give or receive payment for the use of a bait station, including barter or exchange of goods; and

(viii) You may not have more than two bait stations with bait present at any one time.

(15) Taking swimming ungulates, bears, wolves, or wolverine.

(16) Taking or assisting in the taking of ungulates, bear, wolves, wolverine, or other furbearers before 3:00 a.m. following the day in which airborne travel occurred (except for flights in regularly scheduled commercial aircraft). This restriction does not apply to subsistence taking of deer (except on NPS lands) and of caribou on the Nushagak Peninsula (a portion of Units 17A and 17C) during Jan. 1–Mar. 31, provided the hunter is 300 feet from the airplane; moreover, this restriction does not apply to subsistence setting of snares or traps, or the removal of furbearers from traps or snares.

(17) Taking a bear cub or a sow accompanied by cub(s).

(c) *Defense of life and* property. Wildlife taken in defense of life or property is not a subsistence use; wildlife so taken is subject to State regulations.

(d) *Trapping furbearing* animals. The following methods and means of trapping furbearers for subsistence uses pursuant to the requirements of a

trapping license are prohibited, in addition to the prohibitions listed at paragraph (b) of this section:

(1) Disturbing or destroying a den, except that you may disturb a muskrat pushup or feeding house in the course of trapping;

(2) Disturbing or destroying any beaver house;

(3) Taking beaver by any means other than a steel trap or snare, except that you may use firearms in certain Units with established seasons as identified in Unit-specific regulations found in this subpart;

(4) Taking otter with a steel trap having a jaw spread of less than 5⅞ inches during any closed mink and marten season in the same Unit;

(5) Using a net or fish trap (except a blackfish or fyke trap); and

(6) Taking or assisting in the taking of furbearers by firearm before 3:00 a.m. on the day following the day on which airborne travel occurred; however, this does not apply to a trapper using a firearm to dispatch furbearers caught in a trap or snare.

(e) *Possession and transportation of wildlife.* (1) Except as specified in paragraphs (e)(2) or (f)(1) of this section, or as otherwise provided, you may not take a species of wildlife in any unit, or portion of a unit, if your total take of that species already obtained anywhere in the State under Federal and State regulations equals or exceeds the harvest limit in that unit.

(2) An animal taken under Federal or State regulations by any member of a community with an established community harvest limit for that species counts toward the community harvest limit for that species. Except for wildlife taken pursuant to § ____.10(d)(5)(iii) or as otherwise provided for by this part, an animal taken as part of a community harvest limit counts toward every community member's harvest limit for that species taken under Federal or State of Alaska regulations.

(f) *Harvest limits.* (1) The harvest limit specified for a trapping season for a species and the harvest limit set for a hunting season for the same species are separate and distinct. This means that if you have taken a harvest limit for a particular species under a trapping season, you may take additional animals under the harvest limit specified for a hunting season or vice versa.

(2) A brown/grizzly bear taken in a Unit or portion of a Unit having a harvest limit of ''one brown/grizzly bear per year'' counts against a ''one brown/grizzly bear every four regulatory years'' harvest limit in other Units. You may not take more than one brown/grizzly bear in a regulatory year.

(g) *Evidence of sex and identity.* (1) If subsistence take of Dall sheep is restricted to a ram, you may not possess or transport a harvested sheep unless both horns accompany the animal.

(2) If the subsistence taking of an ungulate, except sheep, is restricted to one sex in the local area, you may not possess or transport the carcass of an animal taken in that area unless sufficient portions of the external sex organs remain attached to indicate conclusively the sex of the animal, except that in Units 1–5 antlers are also considered proof of sex for deer if the antlers are naturally attached to an entire carcass, with or without the viscera; and except in Units 11, 13, 19, 21, and 24, where you may possess either sufficient portions of the external sex organs (still attached to a portion of the carcass) or the head (with or without antlers attached; however, the antler stumps must remain attached) to indicate the sex of the harvested moose. However, this paragraph (g)(2) does not apply to the carcass of an ungulate that has been butchered and placed in storage or otherwise prepared for consumption upon arrival at the location where it is to be consumed.

(3) If a moose harvest limit requires an antlered bull, an antler size, or configuration restriction, you may not possess or transport the moose carcass or its parts unless both antlers accompany the carcass or its parts. If you possess a set of antlers with less than the required number of brow tines on one antler, you must leave the antlers naturally attached to the unbroken, uncut skull plate; however, this paragraph (g)(3) does not apply to a moose carcass or its parts that have been butchered and placed in storage or otherwise prepared for consumption after arrival at the place where it is to be stored or consumed.

(h) *Removing harvest from the field.* You must leave all edible meat on the bones of the front quarters and hind quarters of caribou and moose harvested in Units 9, 17, 18, and 19B prior to October 1 until you remove the meat from the field or process it for human consumption. You must leave all edible meat on the bones of the front quarters, hind quarters, and ribs of moose harvested in Unit 21 prior to October 1 until you remove the meat from the field or process it for human consumption. You must leave all edible meat on the bones of the front quarters, hind quarters, and ribs of caribou and moose harvested in Unit 24 prior to October 1 until you remove the meat from the field or process it for human consumption. Meat of the front quarters, hind quarters, or ribs from a harvested moose or caribou may be processed for human consumption and consumed in the field; however, meat may not be removed from the bones for purposes of transport out of the field. You must leave all edible meat on the bones of the front quarters, hind quarters, and ribs of caribou and moose harvested in Unit 25 until you remove the meat from the field or process it for human consumption.

(i) *Returning of tags, marks, or collars.* If you take an animal that has been marked or tagged for scientific studies, you must, within a reasonable time, notify the ADF&G or the agency identified on the collar or marker when and where the animal was taken. You also must retain any ear tag, collar, radio, tattoo, or other identification with the hide until it is sealed, if sealing is required; in all cases, you must return any identification equipment to the ADF&G or to an agency identified on such equipment.

(j) *Sealing of bear skins and skulls.* (1) Sealing requirements for bear apply to brown bears taken in all Units, except as specified in this paragraph, and black bears of all color phases taken in Units 1–7, 11–17, and 20.

(2) You may not possess or transport from Alaska the untanned skin or skull of a bear unless the skin and skull have been sealed by an authorized representative of ADF&G in accordance with State or Federal regulations, except that the skin and skull of a brown bear taken under a registration permit in Units 5, 9B, 9E, 17, 18, 19A and 19B downstream of and including the Aniak River drainage, 21D, 22, 23, 24, and 26A need not be sealed unless removed from the area.

(3) You must keep a bear skin and skull together until a representative of the ADF&G has removed a rudimentary premolar tooth from the skull and sealed both the skull and the skin; however, this provision does not apply to brown bears taken within Units 5, 9B, 9E, 17, 18, 19A and 19B downstream of and including the Aniak River drainage, 21D, 22, 23, 24, and 26A and which are not removed from the Unit.

(i) In areas where sealing is required by Federal regulations, you may not possess or transport the hide of a bear that does not have the penis sheath or vaginal orifice naturally attached to indicate conclusively the sex of the bear.

(ii) If the skin or skull of a bear taken in Units 9B, 17, 18, and 19A and 19B downstream of and including the Aniak River drainage is removed from the area, you must first have it sealed by an ADF&G representative in Bethel, Dillingham, or McGrath; at the time of sealing, the ADF&G representative must

remove and retain the skin of the skull and front claws of the bear.

(iii) If you remove the skin or skull of a bear taken in Units 21D, 22, 23, 24, and 26A from the area or present it for commercial tanning within the area, you must first have it sealed by an ADF&G representative in Barrow, Galena, Nome, or Kotzebue; at the time of sealing, the ADF&G representative must remove and retain the skin of the skull and front claws of the bear.

(iv) If you remove the skin or skull of a bear taken in Unit 5 from the area, you must first have it sealed by an ADF&G representative in Yakutat.

(v) If you remove the skin or skull of a bear taken in Unit 9E from Unit 9, you must first have it sealed by an authorized sealing representative. At the time of sealing, the representative must remove and retain the skin of the skull and front claws of the bear.

(4) You may not falsify any information required on the sealing certificate or temporary sealing form provided by the ADF&G in accordance with State regulations.

(k) *Sealing of beaver, lynx, marten, otter, wolf, and wolverine.* You may not possess or transport from Alaska the untanned skin of a marten taken in Units 1–5, 7, 13E, or 14–16 or the untanned skin of a beaver, lynx, otter, wolf, or wolverine, whether taken inside or outside the State, unless the skin has been sealed by an authorized representative in accordance with State or Federal regulations.

(1) In Unit 18, you must obtain an ADF&G seal for beaver skins only if they are to be sold or commercially tanned.

(2) In Unit 2, you must seal any wolf taken on or before the 14th day after the date of taking.

(l) *Sealing* form. If you take a species listed in paragraph (k) of this section but are unable to present the skin in person, you must complete and sign a temporary sealing form and ensure that the completed temporary sealing form and skin are presented to an authorized representative of ADF&G for sealing consistent with requirements listed in paragraph (k) of this section.

(m) *Traditional religious ceremonies.* You may take wildlife, outside of established season or harvest limits, for food in traditional religious ceremonies, which are part of a funerary or mortuary cycle, including memorial potlatches, under the following provisions:

(1) The harvest does not violate recognized principles of wildlife conservation and uses the methods and means allowable for the particular species published in the applicable Federal regulations. The appropriate Federal land manager will establish the number, species, sex, or location of harvest, if necessary, for conservation purposes. Other regulations relating to ceremonial harvest may be found in the unit-specific regulations in paragraph (n) of this section.

(2) No permit or harvest ticket is required for harvesting under this section; however, the harvester must be a Federally qualified subsistence user with customary and traditional use in the area where the harvesting will occur.

(3) In Units 1–26 (except for Koyukon/Gwich'in potlatch ceremonies in Units 20F, 21, 24, or 25):

(i) A tribal chief, village or tribal council president, or the chief's or president's designee for the village in which the religious/cultural ceremony will be held, or a Federally qualified subsistence user outside of a village or tribal-organized ceremony, must notify the nearest Federal land manager that a wildlife harvest will take place. The notification must include the species, harvest location, and number of animals expected to be taken.

(ii) Immediately after the wildlife is taken, the tribal chief, village or tribal council president or designee, or other Federally qualified subsistence user must create a list of the successful hunters and maintain these records, including the name of the decedent for whom the ceremony will be held. If requested, this information must be available to an authorized representative of the Federal land manager.

(iii) The tribal chief, village or tribal council president or designee, or other Federally qualified subsistence user outside of the village in which the religious/cultural ceremony will be held must report to the Federal land manager the harvest location, species, sex, and number of animals taken as soon as practicable, but not more than 15 days after the wildlife is taken.

(4) In Units 20F, 21, 24, and 25 (for Koyukon/Gwich'in potlatch ceremonies only):

(i) Taking wildlife outside of established season and harvest limits is authorized if it is for food for the traditional Koyukon/Gwich'in Potlatch Funerary or Mortuary ceremony and if it is consistent with conservation of healthy populations.

(ii) Immediately after the wildlife is taken, the tribal chief, village or tribal council president, or the chief's or president's designee for the village in which the religious ceremony will be held must create a list of the successful hunters and maintain these records. The list must be made available, after the harvest is completed, to a Federal land manager upon request.

(iii) As soon as practical, but not more than 15 days after the harvest, the tribal chief, village council president, or designee must notify the Federal land manager about the harvest location, species, sex, and number of animals taken.

(n) *Unit regulations.* You may take for subsistence unclassified wildlife, all squirrel species and marmots in all Units, without harvest limits, for the period of July 1–June 30. Unit-specific restrictions or allowances for subsistence taking of wildlife are identified at paragraphs (n)(1) through (26) of this section.

(1) *Unit 1.* Unit 1 consists of all mainland drainages from Dixon Entrance to Cape Fairweather, and those islands east of the center line of Clarence Strait from Dixon Entrance to Caamano Point, and all islands in Stephens Passage and Lynn Canal north of Taku Inlet:

(i) Unit 1A consists of all drainages south of the latitude of Lemesurier Point including all drainages into Behm Canal, excluding all drainages of Ernest Sound.

(ii) Unit 1B consists of all drainages between the latitude of Lemesurier Point and the latitude of Cape Fanshaw including all drainages of Ernest Sound and Farragut Bay, and including the islands east of the center lines of Frederick Sound, Dry Strait (between Sergief and Kadin Islands), Eastern Passage, Blake Channel (excluding Blake Island), Ernest Sound, and Seward Passage.

(iii) Unit 1C consists of that portion of Unit 1 draining into Stephens Passage and Lynn Canal north of Cape Fanshaw and south of the latitude of Eldred Rock including Berners Bay, Sullivan Island, and all mainland portions north of Chichagof Island and south of the latitude of Eldred Rock, excluding drainages into Farragut Bay.

(iv) Unit 1D consists of that portion of Unit 1 north of the latitude of Eldred Rock, excluding Sullivan Island and the drainages of Berners Bay.

(v) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) Public lands within Glacier Bay National Park are closed to all taking of wildlife for subsistence uses;

(B) Unit 1A—in the Hyder area, the Salmon River drainage downstream from the Riverside Mine, excluding the Thumb Creek drainage, is closed to the taking of bear;

(C) Unit 1B—the Anan Creek drainage within 1 mile of Anan Creek downstream from the mouth of Anan Lake, including the area within a 1-mile

radius from the mouth of Anan Creek Lagoon, is closed to the taking of bear;

(D) Unit 1C:

(*1*) You may not hunt within one-fourth mile of Mendenhall Lake, the U.S. Forest Service Mendenhall Glacier Visitor's Center, and the Center's parking area;

(*2*) You may not take mountain goat in the area of Mt. Bullard bounded by the Mendenhall Glacier, Nugget Creek from its mouth to its confluence with Goat Creek, and a line from the mouth of Goat Creek north to the Mendenhall Glacier.

(vi) You may not trap furbearers for subsistence uses in Unit 1C, Juneau area, on the following public lands:

(A) A strip within one-quarter mile of the mainland coast between the end of Thane Road and the end of Glacier Highway at Echo Cove;

(B) That area of the Mendenhall Valley bounded on the south by the Glacier Highway, on the west by the Mendenhall Loop Road and Montana Creek Road and Spur Road to Mendenhall Lake, on the north by Mendenhall Lake, and on the east by the Mendenhall Loop Road and Forest Service Glacier Spur Road to the Forest Service Visitor Center;

(C) That area within the U.S. Forest Service Mendenhall Glacier Recreation Area;

(D) A strip within one-quarter mile of the following trails as designated on U.S. Geological Survey maps: Herbert Glacier Trail, Windfall Lake Trail, Peterson Lake Trail, Spaulding Meadows Trail (including the loop trail), Nugget Creek Trail, Outer Point Trail, Dan Moller Trail, Perseverance Trail, Granite Creek Trail, Mt. Roberts Trail and Nelson Water Supply Trail, Sheep Creek Trail, and Point Bishop Trail.

(vii) Unit-specific regulations:

(A) You may hunt black bear with bait in Units 1A, 1B, and 1D between April 15 and June 15.

(B) You may not shoot ungulates, bear, wolves, or wolverine from a boat, unless you are certified as disabled.

(C) Coyotes taken incidentally with a trap or snare during an open Federal trapping season for wolf, wolverine, or beaver may be legally retained.

(D) Trappers are prohibited from using a trap or snare unless the trap or snare has been individually marked with a permanent metal tag upon which is stamped or permanently etched the trapper's name and address, or the trapper's permanent identification number, or is set within 50 yards of a sign that lists the trapper's name and address, or the trapper's permanent identification number. The trapper must use the trapper's Alaska driver's license number or State identification card number as the required permanent identification number. If a trapper chooses to place a sign at a snaring site rather than tagging individual snares, the sign must be at least 3 inches by 5 inches in size, be clearly visible, and have numbers and letters that are at least one-half inch high and one-eighth inch wide in a color that contrasts with the color of the sign.

(E) A firearm may be used to take beaver under a trapping license during an open beaver season, except on National Park Service lands.

Harvest limits	Open season
Hunting	
Black Bear:	
2 bears, no more than one may be a blue or glacier bear	Sep. 1–June 30.
Brown Bear:	
1 bear every four regulatory years by State registration permit only	Sep. 15–Dec. 31. Mar. 15–May 31.
Deer:	
Unit 1A—4 antlered deer	Aug. 1–Dec. 31.
Unit 1B—2 antlered deer	Aug. 1–Dec. 31.
Unit 1C—4 deer; however, female deer may be taken only from Sep. 15–Dec. 31	Aug. 1–Dec. 31.
Goat:	
Unit 1A—Revillagigedo Island only	No open season.
Unit 1B—that portion north of LeConte Bay—1 goat by State registration permit only; the taking of kids or nannies accompanied by kids is prohibited.	Aug. 1–Dec. 31.
Unit 1A and Unit 1B—that portion on the Cleveland Peninsula south of the divide between Yes Bay and Santa Anna Inlet.	No open season.
Unit 1A and Unit 1B, remainder—2 goats; a State registration permit will be required for the taking of the first goat and a Federal registration permit for the taking of a second goat. The taking of kids or nannies accompanied by kids is prohibited.	Aug. 1–Dec. 31.
Unit 1C—that portion draining into Lynn Canal and Stephens Passage between Antler River and Eagle Glacier and River, and all drainages of the Chilkat Range south of the Endicott River—1 goat by State registration permit only.	Oct. 1–Nov. 30.
Unit 1C—that portion draining into Stephens Passage and Taku Inlet between Eagle Glacier and River and Taku Glacier.	No open season.
Unit 1C, remainder—1 goat by State registration permit only	Aug. 1–Nov. 30.
Unit 1D—that portion lying north of the Katzehin River and northeast of the Haines highway—1 goat by State registration permit only.	Sep. 15–Nov. 30.
Unit 1D—that portion lying between Taiya Inlet and River and the White Pass and Yukon Railroad	No open season.
Unit 1D, remainder—1 goat by State registration permit only	Aug. 1–Dec. 31.
Moose:	
Unit 1A—1 bull by Federal registration permit	Sep. 15–Oct. 15.
Unit 1B—1 antlered bull with spike-fork or 50-inch antlers or 3 or more brow tines on one side, or antlers with 2 brow tines on both sides, by State registration permit only.	Sep. 15–Oct. 15.
Unit 1C—that portion south of Point Hobart including all Port Houghton drainages—1 antlered bull with spike-fork or 50-inch antlers or 3 or more brow tines on one side, or antlers with 2 brow tines on both sides, by State registration permit only.	Sep. 15–Oct. 15.
Unit 1C, remainder, excluding drainages of Berners Bay—1 bull by State registration permit only	Sep. 15–Oct. 15.
Unit 1C, Berners Bay	No open season.
Unit 1D	No open season.
Coyote:	
2 coyotes	Sep. 1–Apr. 3.

Harvest limits	Open season
Fox, Red (including Cross, Black, and Silver Phases):	
2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe):	
5 hares per day	Sep. 1–Apr. 30.
Lynx:	
2 lynx	Dec. 1–Feb. 15.
Wolf:	
5 wolves	Aug. 1–Apr. 30.
Wolverine:	
1 wolverine	Nov. 10–Feb. 15.
Grouse (Spruce, Blue, and Ruffed):	
5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 1–May 15.
Trapping	
Beaver:	
Unit 1—No limit	Dec. 1–May 15.
Coyote:	
No limit	Dec. 1–Feb. 15.
Fox, Red (including Cross, Black, and Silver Phases):	
No limit	Dec. 1–Feb. 15.
Lynx:	
No limit	Dec. 1–Feb. 15.
Marten:	
No limit	Dec. 1–Feb. 15.
Mink and Weasel:	
No limit	Dec. 1–Feb. 15.
Muskrat:	
No limit	Dec. 1–Feb. 15.
Otter:	
No limit	Dec. 1–Feb. 15.
Wolf:	
No limit	Nov. 10–Apr. 30.
Wolverine:	
No limit	Nov. 10–Mar. 1.

(2) *Unit 2*. Unit 2 consists of Prince of Wales Island and all islands west of the center lines of Clarence Strait and Kashevarof Passage, south and east of the center lines of Sumner Strait, and east of the longitude of the westernmost point on Warren Island.

(i) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15.

(B) You may not shoot ungulates, bear, wolves, or wolverine from a boat, unless you are certified as disabled.

(C) Coyotes taken incidentally with a trap or snare during an open Federal trapping season for wolf, wolverine, or beaver may be legally retained.

(D) Trappers are prohibited from using a trap or snare unless the trap or snare has been individually marked with a permanent metal tag upon which is stamped or permanently etched the trapper's name and address, or the trapper's permanent identification number, or is set within 50 yards of a sign that lists the trapper's name and address, or the trapper's permanent identification number. The trapper must use the trapper's Alaska driver's license number or State identification card number as the required permanent identification number. If a trapper chooses to place a sign at a snaring site rather than tagging individual snares, the sign must be at least 3 inches by 5 inches in size, be clearly visible, and have numbers and letters that are at least one-half inch high and one-eighth inch wide in a color that contrasts with the color of the sign.

(E) A firearm may be used to take beaver under a trapping license during an open beaver season, except on National Park Service lands.

(ii) [Reserved].

Harvest limits	Open season
Hunting	
Black Bear:	
2 bears, no more than one may be a blue or glacier bear	Sep. 1–June 30.
Deer:	
5 deer; however, no more than one may be a female deer. Female deer may be taken only during the period Oct. 15–Jan. 31. Harvest ticket number five must be used when recording the harvest of a female deer, but may be used for recording the harvest of a male deer. Harvest tickets must be used in order except when recording a female deer on tag number five.	July 24–Jan. 31.
The Federal public lands on Prince of Wales Island, excluding the southeastern portion (lands south of the West Arm of Cholmondeley Sound draining into Cholmondeley Sound or draining eastward into Clarence Strait), are closed to hunting of deer from Aug. 1 to Aug. 15, except by Federally qualified subsistence users hunting under these regulations.	
Coyote:	

Harvest limits	Open season
2 coyotes	Sep. 1–Apr. 30.
Fox, Red (including Cross, Black, and Silver Phases):	
2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe):	
5 hares per day	Sep. 1–Apr. 30.
Lynx:	
2 lynx	Dec. 1–Feb. 15.
Wolf:	
5 wolves. Federal hunting and trapping season may be closed when the combined Federal-State harvest quota is reached. Any wolf taken in Unit 2 must be sealed within 14 days of harvest.	Sep. 1–Mar. 31.
Wolverine:	
1 wolverine	Nov. 10–Feb. 15.
Grouse (Spruce and Ruffed):	
5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 1–May 15.
Trapping	
Beaver:	
No limit	Dec. 1–May 15.
Coyote:	
No limit	Dec. 1–Feb. 15.
Fox, Red (including Cross, Black, and Silver Phases):	
No limit	Dec. 1–Feb. 15.
Lynx:	
No limit	Dec. 1–Feb. 15.
Marten:	
No limit	Dec. 1–Feb. 15.
Mink and Weasel:	
No limit	Dec. 1 –Feb. 15.
Muskrat:	
No limit	Dec. 1–Feb. 15.
Otter:	
No limit	Dec. 1–Feb. 15.
Wolf:	
No limit. Federal hunting and trapping season may be closed when the combined Federal-State harvest quota is reached. Any wolf taken in Unit 2 must be sealed within 14 days of harvest.	Nov. 15–Mar. 31.
Wolverine:	
No limit	Nov. 10–Mar. 1.

(3) *Unit 3.* (i) Unit 3 consists of all islands west of Unit 1B, north of Unit 2, south of the center line of Frederick Sound, and east of the center line of Chatham Strait including Coronation, Kuiu, Kupreanof, Mitkof, Zarembo, Kashevaroff, Woronkofski, Etolin, Wrangell, and Deer Islands.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) In the Petersburg vicinity, you may not take ungulates, bear, wolves, and wolverine along a strip one-fourth mile wide on each side of the Mitkof Highway from Milepost 0 to Crystal Lake campground;

(B) You may not take black bears in the Petersburg Creek drainage on Kupreanof Island;

(C) You may not hunt in the Blind Slough draining into Wrangell Narrows and a strip one-fourth mile wide on each side of Blind Slough, from the hunting closure markers at the southernmost portion of Blind Island to the hunting closure markers 1 mile south of the Blind Slough bridge.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15.

(B) You may not shoot ungulates, bear, wolves, or wolverine from a boat, unless you are certified as disabled.

(C) Coyotes taken incidentally with a trap or snare during an open Federal trapping season for wolf, wolverine, or beaver may be legally retained.

(D) Trappers are prohibited from using a trap or snare unless the trap or snare has been individually marked with a permanent metal tag upon which is stamped or permanently etched the trapper's name and address, or the trapper's permanent identification number, or is set within 50 yards of a sign that lists the trapper's name and address, or the trapper's permanent identification number. The trapper must use the trapper's Alaska driver's license number or State identification card number as the required permanent identification number. If a trapper chooses to place a sign at a snaring site rather than tagging individual snares, the sign must be at least 3 inches by 5 inches in size, be clearly visible, and have numbers and letters that are at least one-half inch high and one-eighth inch wide in a color that contrasts with the color of the sign.

(E) A firearm may be used to take beaver under a trapping license during an open beaver season, except on National Park Service lands.

Harvest limits	Open season
Hunting	
Black Bear:	
2 bears, no more than one may be a blue or glacier bear	Sep. 1–June 30.

Harvest limits	Open season
Deer:	
Unit 3—Mitkof, Woewodski, and Butterworth Islands—1 antlered deer	Oct. 15–31.
Unit 3—Kupreanof Island, that portion east of the Portage Bay-Duncan Canal Portage—1 antlered deer	Oct. 15–31.
Unit 3, remainder—2 antlered deer	Aug. 1–Nov. 30. Dec. 1–31, season to be announced.
Moose:	
1 antlered bull with spike-fork or 50-inch antlers or 3 or more brow tines on either antler, or antlers with 2 brow tines on both sides by State registration permit only.	Sep. 15–Oct. 15.
Coyote:	
2 coyotes	Sep. 1–Apr. 30.
Fox, Red (including Cross, Black, and Silver Phases):	
2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe):	
5 hares per day	Sep. 1–Apr. 30.
Lynx:	
2 lynx	Dec. 1–Feb. 15.
Wolf:	
5 wolves	Aug. 1–Apr. 30.
Wolverine:	
1 wolverine	Nov. 10–Feb. 15.
Grouse (Spruce, Blue, and Ruffed):	
5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 1–May 15.
Trapping	
Beaver:	
Unit 3—Mitkof Island—No limit	Dec. 1–Apr. 15.
Unit 3—except Mitkof Island—No limit	Dec. 1–May 15.
Coyote:	
No limit	Dec. 1–Feb. 15.
Fox, Red (including Cross, Black, and Silver Phases):	
No limit	Dec. 1–Feb. 15.
Lynx:	
No limit	Dec. 1–Feb. 15.
Marten:	
No limit (except on Kuiu Island)	Dec. 1–Feb. 15.
Kuiu Island portion of Unit 3. No limit	Dec. 1–31.
Mink and Weasel:	
No limit	Dec. 1–Feb. 15.
Muskrat:	
No limit	Dec. 1–Feb. 15.
Otter:	
No limit	Dec. 1–Feb. 15.
Wolf:	
No limit	Nov. 10–Apr. 30.
Wolverine:	
No limit	Nov. 10–Mar. 1.

(4) *Unit 4.* (i) Unit 4 consists of all islands south and west of Unit 1C and north of Unit 3 including Admiralty, Baranof, Chichagof, Yakobi, Inian, Lemesurier, and Pleasant Islands.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) You may not take brown bears in the Seymour Canal Closed Area (Admiralty Island) including all drainages into northwestern Seymour Canal between Staunch Point and the southernmost tip of the unnamed peninsula separating Swan Cove and King Salmon Bay including Swan and Windfall Islands;

(B) You may not take brown bears in the Salt Lake Closed Area (Admiralty Island) including all lands within one-fourth mile of Salt Lake above Klutchman Rock at the head of Mitchell Bay;

(C) You may not take brown bears in the Port Althorp Closed Area (Chichagof Island), that area within the Port Althorp watershed south of a line from Point Lucan to Salt Chuck Point (Trap Rock);

(D) You may not use any motorized land vehicle for brown bear hunting in the Northeast Chichagof Controlled Use Area (NECCUA) consisting of all portions of Unit 4 on Chichagof Island north of Tenakee Inlet and east of the drainage divide from the northwestern point of Gull Cove to Port Frederick Portage, including all drainages into Port Frederick and Mud Bay.

(iii) Unit-specific regulations:

(A) You may shoot ungulates from a boat. You may not shoot bear, wolves, or wolverine from a boat, unless you are certified as disabled.

(B) Five Federal registration permits will be issued by the Sitka or Hoonah District Ranger for the taking of brown bear for educational purposes associated with teaching customary and traditional subsistence harvest and use practices. Any bear taken under an educational permit does not count in an individual's one bear every four regulatory years limit.

(C) Coyotes taken incidentally with a trap or snare during an open Federal

trapping season for wolf, wolverine, or beaver may be legally retained.

(D) Trappers are prohibited from using a trap or snare unless the trap or snare has been individually marked with a permanent metal tag upon which is stamped or permanently etched the trapper's name and address, or the trapper's permanent identification number, or is set within 50 yards of a sign that lists the trapper's name and address, or the trapper's permanent identification number. The trapper must use the trapper's Alaska driver's license number or State identification card number as the required permanent identification number. If a trapper chooses to place a sign at a snaring site rather than tagging individual snares, the sign must be at least 3 inches by 5 inches in size, be clearly visible, and have numbers and letters that are at least one-half inch high and one-eighth inch wide in a color that contrasts with the color of the sign.

(E) A firearm may be used to take beaver under a trapping license during an open beaver season, except on National Park Service lands.

Harvest limits	Open season
Hunting	
Brown Bear:	
Unit 4—Chichagof Island south and west of a line that follows the crest of the island from Rock Point (58° N. lat., 136°21′ W. long.) to Rodgers Point (57°35′ N. lat., 135°33′ W. long.) including Yakobi and other adjacent islands; Baranof Island south and west of a line which follows the crest of the island from Nismeni Point (57°34′ N. lat., 135°25′ W. long.) to the entrance of Gut Bay (56°44′ N. lat. 134°38′ W. long.) including the drainages into Gut Bay and including Kruzof and other adjacent islands—1 bear every four regulatory years by State registration permit only.	Sep. 15–Dec. 31. Mar. 15–May 31.
Unit 4, remainder—1 bear every 4 regulatory years by State registration permit only	Sep. 15–Dec. 31. Mar. 15–May 20.
Deer:	
6 deer; however, female deer may be taken only from Sep. 15–Jan. 31	Aug. 1–Jan. 31.
Goat:	
1 goat by State registration permit only	Aug. 1–Dec. 31.
Coyote:	
2 coyotes	Sep. 1–Apr. 30.
Fox, Red (including Cross, Black, and Silver Phases):	
2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe):	
5 hares per day	Sep. 1–Apr. 30.
Lynx:	
2 lynx	Dec. 1–Feb. 15.
Wolf:	
5 wolves	Aug. 1–Apr. 30.
Wolverine:	
1 wolverine	Nov. 10–Feb. 15.
Grouse (Spruce, Blue, and Ruffed):	
5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 1–May 15.
Trapping	
Beaver:	
No limit	Dec. 1–May 15.
Coyote:	
No limit	Dec. 1–Feb. 15.
Fox, Red (including Cross, Black, and Silver Phases):	
No limit	Dec. 1–Feb. 15.
Lynx:	
No limit	Dec. 1–Feb. 15.
Marten:	
No limit	Dec. 1–Feb. 15.
Mink and Weasel:	
No limit	Dec. 1–Feb. 15.
Muskrat:	
No limit	Dec. 1–Feb. 15.
Otter:	
No limit	Dec. 1–Feb. 15.
Wolf:	
No limit	Nov. 10–Apr. 30.
Wolverine:	
No limit	Nov. 10–Mar. 1.

(5) *Unit 5.* (i) Unit 5 consists of all Gulf of Alaska drainages and islands between Cape Fairweather and the center line of Icy Bay, including the Guyot Hills:

(A) Unit 5A consists of all drainages east of Yakutat Bay, Disenchantment Bay, and the eastern edge of Hubbard Glacier, and includes the islands of Yakutat and Disenchantment Bays; In Unit 5A, Nunatak Bench is defined as

that area east of the Hubbard Glacier, north of Nunatak fiord, and north and east of the East Nunatak Glacier to the Canadian Border.

(B) Unit 5B consists of the remainder of Unit 5.

(ii) You may not take wildlife for subsistence uses on public lands within Glacier Bay National Park.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15.

(B) You may not shoot ungulates, bear, wolves, or wolverine from a boat, unless you are certified as disabled.

(C) You may hunt brown bear in Unit 5 with a Federal registration permit in lieu of a State metal locking tag if you have obtained a Federal registration permit prior to hunting.

(D) Coyotes taken incidentally with a trap or snare during an open Federal trapping season for wolf, wolverine, or beaver may be legally retained.

(E) Trappers are prohibited from using a trap or snare unless the trap or snare has been individually marked with a permanent metal tag upon which is stamped or permanently etched the trapper's name and address, or the trapper's permanent identification number, or is set within 50 yards of a sign that lists the trapper's name and address, or the trapper's permanent identification number. The trapper must use the trapper's Alaska driver's license number or State identification card number as the required permanent identification number. If a trapper chooses to place a sign at a snaring site rather than tagging individual snares, the sign must be at least 3 inches by 5 inches in size, be clearly visible, and have numbers and letters that are at least one-half inch high and one-eighth inch wide in a color that contrasts with the color of the sign.

(F) A firearm may be used to take beaver under a trapping license during an open beaver season, except on National Park Service lands.

Harvest limits	Open season
Hunting	
Black Bear:	
2 bears, no more than one may be a blue or glacier bear	Sep. 1–June 30.
Brown Bear:	
1 bear by Federal registration permit only	Sep. 1–May 31.
Deer:	
Unit 5A—1 buck	Nov. 1–Nov. 30.
Unit 5B	No open season.
Goat:	
Unit 5A—that area between the Hubbard Glacier and the West Nunatak Glacier on the north and east sides of Nunatak Fjord.	No open season.
Unit 5A, remainder—1 goat by Federal registration permit. The harvest quota will be announced prior to the season. A minimum of four goats in the harvest quota will be reserved for Federally qualified subsistence users.	Aug. 1–Jan. 31.
Unit 5B—1 goat by Federal registration permit only	Aug. 1–Jan. 31.
Moose:	
Unit 5A—Nunatak Bench—1 moose by State registration permit only. The season will be closed when 5 moose have been taken from the Nunatak Bench.	Nov. 15–Feb. 15.
Unit 5A—except Nunatak Bench—1 bull by joint State/Federal registration permit only. From Oct. 8–21, public lands will be closed to taking of moose, except by residents of Unit 5A hunting under these regulations.	Oct. 8–Nov. 15.
Unit 5B—1 bull by State registration permit only. The season will be closed when 25 bulls have been taken from the entirety of Unit 5B.	Sep. 1–Dec. 15.
Coyote:	
2 coyotes	Sep. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe):	
5 hares per day	Sep. 1–Apr. 30.
Lynx:	
2 lynx	Dec. 1–Feb. 15.
Wolf:	
5 wolves	Aug. 1–Apr. 30.
Wolverine:	
1 wolverine	Nov. 10–Feb. 15.
Grouse (Spruce and Ruffed):	
5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 1–May 15.
Trapping	
Beaver:	
No limit	Nov. 10–May 15.
Coyote:	
No limit	Nov. 10–Feb. 15.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 10–Feb. 15.
Lynx:	
No limit	Dec. 1–Feb. 15.
Marten:	
No limit	Nov. 10–Feb. 15.
Mink and Weasel:	
No limit	Nov. 10–Feb. 15.
Muskrat:	

Harvest limits	Open season
No limit	Dec. 1–Feb. 15.
Otter:	
No limit	Nov. 10–Feb. 15.
Wolf:	
No limit	Nov. 10–Apr. 30.
Wolverine:	
No limit	Nov. 10–Mar. 1.

(6) *Unit 6.* (i) Unit 6 consists of all Gulf of Alaska and Prince William Sound drainages from the center line of Icy Bay (excluding the Guyot Hills) to Cape Fairfield including Kayak, Hinchinbrook, Montague, and adjacent islands, and Middleton Island, but excluding the Copper River drainage upstream from Miles Glacier, and excluding the Nellie Juan and Kings River drainages:

(A) Unit 6A consists of Gulf of Alaska drainages east of Palm Point near Katalla including Kanak, Wingham, and Kayak Islands;

(B) Unit 6B consists of Gulf of Alaska and Copper River Basin drainages west of Palm Point near Katalla, east of the west bank of the Copper River, and east of a line from Flag Point to Cottonwood Point;

(C) Unit 6C consists of drainages west of the west bank of the Copper River, and west of a line from Flag Point to Cottonwood Point, and drainages east of the east bank of Rude River and drainages into the eastern shore of Nelson Bay and Orca Inlet;

(D) Unit 6D consists of the remainder of Unit 6.

(ii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15. In addition, you may use bait in Unit 6D between June 16 and June 30. The harvest quota in Unit 6D is 20 bears taken with bait between June 16 and June 30.

(B) You may take coyotes in Units 6B and 6C with the aid of artificial lights.

(C) One permit will be issued by the Cordova District Ranger to the Native Village of Eyak to take one moose from Federal lands in Units 6B or C for their annual Memorial/Sobriety Day potlatch.

(D) A Federally qualified subsistence user (recipient) who is either blind, 65 years of age or older, at least 70 percent disabled, or temporarily disabled may designate another Federally qualified subsistence user to take any moose, deer, black bear, and beaver on his or her behalf in Unit 6, and goat in Unit 6D, unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients, but may have no more than one harvest limit in his or her possession at any one time.

(E) A hunter younger than 10 years old at the start of the hunt may not be issued a Federal subsistence permit to harvest black bear, deer, goat, moose, wolf, and wolverine.

(F) A hunter younger than 10 years old may harvest black bear, deer, goat, moose, wolf, and wolverine under the direct, immediate supervision of a licensed adult, at least 18 years old. The animal taken is counted against the adult's harvest limit. The adult is responsible for ensuring that all legal requirements are met.

(G) Up to five permits will be issued by the Cordova District Ranger to the Native Village of Chenega annually to harvest up to five deer total from Federal public lands in Unit 6D for their annual Old Chenega Memorial and other traditional memorial potlatch ceremonies. Permits will have effective dates of July 1–June 30.

(H) Up to five permits will be issued by the Cordova District Ranger to the Tatitlek IRA Council annually to harvest up to five deer total from Federal public lands in Unit 6D for their annual Cultural Heritage Week. Permits will have effective dates of July 1–June 30.

Harvest limits	Open season
Hunting	
Black Bear:	
1 bear. In Unit 6D a State registration permit is required	Sep. 1–June 30.
Deer:	
5 deer; however, antlerless deer may be taken only from Oct. 1–Dec. 31	Aug. 1–Dec. 31.
Unit 6D—1 buck	Jan. 1–31.
Goats:	
Unit 6A and B—1 goat by State registration permit only	Aug. 20–Jan. 31.
Unit 6C	No open season.
Unit 6D (subareas RG242, RG243, RG244, RG245, RG249, RG266 and RG252 only)—1 goat by Federal registration permit only. In each of the Unit 6D subareas, goat seasons will be closed by the Cordova District Ranger when harvest limits for that subarea are reached. Harvest quotas are as follows: RG242—2 goats, RG243—4 goats, RG244 and RG245 combined—2 goats, RG249—4 goats, RG266—4 goats, RG252—1 goat.	Aug. 20–Feb. 28.
Moose:	
Unit 6C—1 antlerless moose by Federal drawing permit only	Sep. 1–Oct. 31.
Permits for the portion of the antlerless moose quota not harvested in the Sep. 1–Oct. 31 hunt may be available for redistribution for a Nov. 1–Dec. 31 hunt.	
Unit 6C—1 bull by Federal drawing permit only	Sep. 1–Dec. 31.
In Unit 6C, only one moose permit may be issued per household. A household receiving a State permit for Unit 6C moose may not receive a Federal permit. The annual harvest quota will be announced by the U.S. Forest Service, Cordova Office, in consultation with ADF&G. The Federal harvest allocation will be 100% of the antlerless moose permits and 75% of the bull permits. Federal public lands are closed to the harvest of moose except by Federally qualified users with a Federal permit for Unit 6C moose, Nov. 1–Dec. 31.	
Unit 6, remainder	No open season.
Beaver:	

Harvest limits	Open season
1 beaver per day, 1 in possession	May 1–Oct. 31.
Coyote:	
Unit 6A and D—2 coyotes	Sep. 1–Apr. 30.
Unit 6B and 6C—No limit	July 1–June 30.
Fox, Red (including Cross, Black and Silver Phases):	No open season.
Hare (Snowshoe):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Nov. 10–Jan. 31.
Wolf:	
5 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sep. 1–Mar. 31.
Grouse (Spruce):	
5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 1–May 15.
Trapping	
Beaver:	
No limit	Dec. 1–Apr. 30.
Coyote:	
Unit 6C—south of the Copper River Highway and east of the Heney Range—No limit	Nov. 10–Apr. 30.
Units 6A, 6B, 6C remainder, and 6D—No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 10–Feb. 28.
Marten:	
No limit	Nov. 10–Feb. 28.
Mink and Weasel:	
No limit	Nov. 10–Jan. 31.
Muskrat:	
No limit	Nov. 10–June 10.
Otter:	
No limit	Nov. 10–Mar. 31.
Wolf:	
No limit	Nov. 10–Mar. 31.
Wolverine:	
No limit	Nov. 10–Feb. 28.

(7) *Unit 7.* (i) Unit 7 consists of Gulf of Alaska drainages between Gore Point and Cape Fairfield including the Nellie Juan and Kings River drainages, and including the Kenai River drainage upstream from the Russian River, the drainages into the south side of Turnagain Arm west of and including the Portage Creek drainage, and east of 150° W. long., and all Kenai Peninsula drainages east of 150° W. long., from Turnagain Arm to the Kenai River.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) You may not take wildlife for subsistence uses in the Kenai Fjords National Park.

(B) You may not hunt in the Portage Glacier Closed Area in Unit 7, which consists of Portage Creek drainages between the Anchorage-Seward Railroad and Placer Creek in Bear Valley, Portage Lake, the mouth of Byron Creek, Glacier Creek, and Byron Glacier; however, you may hunt grouse, ptarmigan, hares, and squirrels with shotguns after September 1.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15, except in the drainages of Resurrection Creek and its tributaries.

(B) [Reserved].

Harvest limits	Open season
Hunting	
Black Bear:	
3 bears	July 1–June 30.
Caribou:	
Unit 7—north of the Sterling Highway and west of the Seward Highway—1 caribou by Federal registration permit only. The Seward District Ranger will close the Federal season when 5 caribou are harvested by Federal registration permit.	Aug. 10–Dec. 31.
Unit 7, remainder	No open season.
Moose:	
Unit 7—that portion draining into Kings Bay—Federal public lands are closed to the taking of moose except by residents of Chenega Bay and Tatitlek.	No open season.
Unit 7, remainder—1 antlered bull with spike-fork or 50-inch antlers or with 3 or more brow tines on either antler, by Federal registration permit only.	Aug. 10–Sep. 20.
Beaver:	
1 beaver per day, 1 in possession	May 1–Oct. 10.

Harvest limits	Open season
Coyote:	
No limit	Sep. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	No open season.
Hare (Snowshoe):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Nov. 10–Jan. 31.
Wolf:	
Unit 7—that portion within the Kenai National Wildlife Refuge—2 wolves	Aug. 10–Apr. 30.
Unit 7, remainder—5 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sep. 1–Mar. 31.
Grouse (Spruce):	
10 per day, 20 in possession	Aug. 10–Mar. 31.
Grouse (Ruffed):	No open season.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Mar. 31.
Trapping	
Beaver:	
20 beaver per season	Nov. 10–Mar. 31.
Coyote:	
No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 10–Feb. 28.
Lynx:	
No limit	Jan. 1–31.
Marten:	
No limit	Nov. 10–Jan. 31.
Mink and Weasel:	
No limit	Nov. 10–Jan. 31.
Muskrat:	
No limit	Nov. 10–May 15.
Otter:	
No limit	Nov. 10–Feb. 28.
Wolf:	
No limit.	Nov. 10–Mar. 31.
Wolverine:	
No limit	Nov. 10–Feb. 28.

(8) *Unit 8.* Unit 8 consists of all islands southeast of the centerline of Shelikof Strait including Kodiak, Afognak, Whale, Raspberry, Shuyak, Spruce, Marmot, Sitkalidak, Amook, Uganik, and Chirikof Islands, the Trinity Islands, the Semidi Islands, and other adjacent islands.

(i) Unit-specific regulations: If you have a trapping license, you may take beaver with a firearm in Unit 8 from Nov. 10–Apr. 30.

(ii) [Reserved].

Harvest limits	Open season
Hunting	
Brown Bear:	
1 bear by Federal registration permit only. Up to 2 permits may be issued in Akhiok; up to 1 permit may be issued in Karluk; up to 3 permits may be issued in Larsen Bay; up to 3 permits may be issued in Old Harbor; up to 2 permits may be issued in Ouzinkie; and up to 2 permits may be issued in Port Lions. Permits will be issued by the Kodiak Refuge Manager.	Dec. 1–Dec. 15. Apr. 1–May 15.
Deer:	
Unit 8—all lands within the Kodiak Archipelago within the Kodiak National Wildlife Refuge, including lands on Kodiak, Ban, Uganik, and Afognak Islands—3 deer; however, antlerless deer may be taken only from Oct. 1–Jan. 31.	Aug. 1–Jan. 31.
Elk:	
Kodiak, Ban, Uganik, and Afognak Islands—1 elk per household by Federal registration permit only. The season will be closed by announcement of the Refuge Manager, Kodiak National Wildlife Refuge when the combined Federal/State harvest reaches 15% of the herd.	Sep. 15–Nov. 30.
Fox, Red (including Cross, Black and Silver Phases):	
2 foxes	Sep. 1–Feb. 15.
Hare (Snowshoe):	
No limit	July 1–June 30.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Apr. 30.

Harvest limits	Open season
Trapping	
Beaver:	
30 beaver per season	Nov. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 10–Mar. 31.
Marten:	
No limit	Nov. 10–Jan. 31.
Mink and Weasel:	
No limit	Nov. 10–Jan. 31.
Muskrat:	
No limit	Nov. 10–June 10.
Otter:	
No limit	Nov. 10–Jan. 31.

(9) *Unit 9.* (i) Unit 9 consists of the Alaska Peninsula and adjacent islands, including drainages east of False Pass, Pacific Ocean drainages west of and excluding the Redoubt Creek drainage; drainages into the south side of Bristol Bay, drainages into the north side of Bristol Bay east of Etolin Point, and including the Sanak and Shumagin Islands:

(A) Unit 9A consists of that portion of Unit 9 draining into Shelikof Strait and Cook Inlet between the southern boundary of Unit 16 (Redoubt Creek) and the northern boundary of Katmai National Park and Preserve.

(B) Unit 9B consists of the Kvichak River drainage except those lands drained by the Kvichak River/Bay between the Alagnak River drainage and the Naknek River drainage.

(C) Unit 9C consists of the Alagnak (Branch) River drainage, the Naknek River drainage, lands drained by the Kvichak River/Bay between the Alagnak River drainage and the Naknek River drainage, and all land and water within Katmai National Park and Preserve.

(D) Unit 9D consists of all Alaska Peninsula drainages west of a line from the southernmost head of Port Moller to the head of American Bay, including the Shumagin Islands and other islands of Unit 9 west of the Shumagin Islands.

(E) Unit 9E consists of the remainder of Unit 9.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) You may not take wildlife for subsistence uses in Katmai National Park;

(B) You may not use motorized vehicles, except aircraft, boats, or snowmobiles used for hunting and transporting a hunter or harvested animal parts from Aug. 1–Nov. 30 in the Naknek Controlled Use Area, which includes all of Unit 9C within the Naknek River drainage upstream from and including the King Salmon Creek drainage; however, you may use a motorized vehicle on the Naknek-King Salmon, Lake Camp, and Rapids Camp roads and on the King Salmon Creek trail, and on frozen surfaces of the Naknek River and Big Creek.

(iii) Unit-specific regulations:

(A) If you have a trapping license, you may use a firearm to take beaver in Unit 9B from April 1–May 31 and in the remainder of Unit 9 from April 1–30.

(B) You may hunt brown bear by State registration permit in lieu of a resident tag in Unit 9B, except that portion within the Lake Clark National Park and Preserve, if you have obtained a State registration permit prior to hunting.

(C) In Unit 9B, Lake Clark National Park and Preserve, residents of Iliamna, Newhalen, Nondalton, Pedro Bay, Port Alsworth, and that portion of the park resident zone in Unit 9B and 13.440 permit holders may hunt brown bear by Federal registration permit in lieu of a resident tag. The season will be closed when 4 females or 10 bears have been taken, whichever occurs first. The permits will be issued and closure announcements made by the Superintendent Lake Clark National Park and Preserve.

(D) Residents of Iliamna, Newhalen, Nondalton, Pedro Bay, and Port Alsworth may take up to a total of 10 bull moose in Unit 9B for ceremonial purposes, under the terms of a Federal registration permit from July 1–June 30. Permits will be issued to individuals only at the request of a local organization. This 10-moose limit is not cumulative with that permitted for potlatches by the State.

(E) For Units 9C and 9E only, a Federally qualified subsistence user (recipient) of Units 9C and 9E may designate another Federally qualified subsistence user of Units 9C and 9E to take bull caribou on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report and turn over all meat to the recipient. There is no restriction on the number of possession limits the designated hunter may have in his/her possession at any one time.

(F) For Unit 9D, a Federally qualified subsistence user (recipient) may designate another Federally qualified subsistence user to take caribou on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than four harvest limits in his/her possession at any one time.

(G) The communities of False Pass, King Cove, Cold Bay, Sand Point, and Nelson Lagoon annually may each take, from October 1–December 31 or May 10–25, one brown bear for ceremonial purposes, under the terms of a Federal registration permit. A permit will be issued to an individual only at the request of a local organization. The brown bear may be taken from either Unit 9D or Unit 10 (Unimak Island) only.

(H) You may hunt brown bear in Unit 9E with a Federal registration permit in lieu of a State locking tag if you have obtained a Federal registration permit prior to hunting.

Harvest limits	Open season
Hunting	
Black Bear:	
3 bears	July 1–June 30.
Brown Bear:	
Unit 9B—Lake Clark National Park and Preserve—Rural residents of Iliamna, Newhalen, Nondalton, Pedro Bay, Port Alsworth, residents of that portion of the park resident zone in Unit 9B; and 13.440 permit holders—1 bear by Federal registration permit only.	July 1–June 30.
The season will be closed by the Lake Clark National Park and Preserve Superintendent when 4 females or 10 bear have been taken, whichever occurs first.	
Unit 9B, remainder—1 bear by State registration permit only	Sep. 1–May 31.
Unit 9C—1 bear by Federal registration permit only	Oct. 1–May 31.
The season will be closed by the Katmai National Park and Preserve Superintendent in consultation with BLM and FWS land managers and ADF&G, when 6 females or 10 bear have been taken, whichever occurs first.	
Unit 9E—1 bear by Federal registration permit	Sep. 25–Dec. 31. Apr. 15–May 25.
Caribou:	
Unit 9A—2 caribou by State registration permit; no more than 1 caribou may be a bull, and no more than 1 caribou may be taken Aug. 1–Jan. 31.	Aug. 1–Mar. 15.
Unit 9B—2 caribou by State registration permit; no more than 1 caribou may be a bull, and no more than 1 caribou may be taken Aug. 1–Jan. 31.	Aug. 1–Mar. 31.
Unit 9C, that portion within the Alagnak River drainage—2 caribou by State registration permit; no more than 1 caribou may be a bull, and no more than 1 caribou may be taken Aug. 1–Jan. 31.	Aug. 1–Mar. 15.
Unit 9C, remainder—1 bull by Federal registration permit or State permit. Federal public lands are closed to the taking of caribou except by residents of Unit 9C and Egegik.	May be announced.
Unit 9D—1 bull caribou by Federal registration permit only. Quotas and any needed closures will be announced by the Izembek Refuge Manager after consultation with ADF&G.	Aug. 10–Sep. 20. Nov. 15–Mar. 31.
Unit 9E—1 bull by Federal registration permit or State permit. Federal public lands are closed to the taking of caribou except by residents of Unit 9E, Nelson Lagoon, and Sand Point.	May be announced.
Sheep:	
Unit 9B, that portion within Lake Clark National Park and Preserve—1 ram with 3/4 curl or larger horn by Federal registration permit only. By announcement of the Lake Clark National Park and Preserve Superintendent, the summer/fall season will be closed when up to 5 sheep are taken and the winter season will be closed when up to 2 sheep are taken.	July 15–Oct. 15. Jan. 1–Apr. 1.
Unit 9B, remainder—1 ram with 7/8 curl or larger horn by Federal registration permit only	Aug. 10–Oct. 10.
Unit 9, remainder—1 ram with 7/8 curl or larger horn	Aug. 10–Sep. 20.
Moose:	
Unit 9A—1 bull by State registration permit	Sep. 1–15.
Unit 9B—1 bull by State registration permit	Sep. 1–20. Dec. 1–Jan. 15.
Unit 9C—that portion draining into the Naknek River from the north—1 bull by State registration permit	Sep. 1–20. Dec. 1–31.
Unit 9C—that portion draining into the Naknek River from the south—1 bull by State registration permit. Public lands are closed during December for the hunting of moose, except by Federally qualified subsistence users hunting under these regulations.	Aug. 20–Sep. 20. Dec. 1–31.
Unit 9C, remainder—1 bull by State registration permit	Sep. 1–20. Dec. 15–Jan. 15.
Unit 9D—1 bull by Federal registration permit. Federal public lands will be closed by announcement of the Izembek Refuge Manager to the harvest of moose when a total of 10 bulls have been harvested between State and Federal hunts.	Dec. 15–Jan. 20.
Unit 9E—1 bull by State registration permit; however, only antlered bulls may be taken Dec. 1–Jan. 31	Sep. 1–25. Dec. 1–Jan. 31.
Beaver:	
Unit 9B and 9E—2 beaver per day	Apr. 15–May 31.
Coyote:	
2 coyotes	Sep. 1–Apr. 30.
Fox, Arctic (Blue and White):	
No limit	Dec. 1–Mar. 15.
Fox, Red (including Cross, Black and Silver Phases):	
2 foxes	Sep. 1–Feb. 15.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Nov. 10–Feb. 28.
Wolf:	
10 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sep. 1–Mar. 31.
Grouse (Spruce):	
15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession.	Aug. 10–Apr. 30.

Harvest limits	Open season
Trapping	
Beaver:	
No limit	Oct. 10–Mar. 31.
2 beaver per day; only firearms may be used	Apr. 15–May 31.
Coyote:	
No limit	Nov. 10–Mar. 31.
Fox, Arctic (Blue and White):	
No limit	Nov. 10–Feb. 28.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 10–Feb. 28.
Lynx:	
No limit	Nov. 10–Feb. 28.
Marten:	
No limit	Nov. 10–Feb. 28.
Mink and Weasel:	
No limit	Nov. 10–Feb. 28.
Muskrat:	
No limit	Nov. 10–June 10.
Otter:	
No limit	Nov. 10–Mar. 31.
Wolf:	
No limit	Nov. 10–Mar. 31.
Wolverine:	
No limit	Nov. 10–Feb. 28.

(10) *Unit 10.* (i) Unit 10 consists of the Aleutian Islands, Unimak Island, and the Pribilof Islands.

(ii) You may not take any wildlife species for subsistence uses on Otter Island in the Pribilof Islands.

(iii) In Unit 10—Unimak Island only, a Federally qualified subsistence user (recipient) may designate another Federally qualified subsistence user to take caribou on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than four harvest limits in his/her possession at any one time.

(iv) The communities of False Pass, King Cove, Cold Bay, Sand Point, and Nelson Lagoon annually may each take, from October 1–December 31 or May 10–25, one brown bear for ceremonial purposes, under the terms of a Federal registration permit. A permit will be issued to an individual only at the request of a local organization. The brown bear may be taken from either Unit 9D or Unit 10 (Unimak Island) only.

Harvest limits	Open season
Hunting	
Caribou:	
Unit 10—Unimak Island only	No open season.
Unit 10, remainder—No limit	July 1–June 30.
Coyote:	
2 coyotes	Sep. 1–Apr. 30.
Fox, Arctic (Blue and White Phase):	
No limit	July 1–June 30.
Fox, Red (including Cross, Black and Silver Phases):	
2 foxes	Sep. 1–Feb. 15.
Wolf:	
5 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sep. 1–Mar. 31.
Ptarmigan (Rock and Willow):	
20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Coyote:	
2 coyotes	Sep. 1–Apr. 30.
Fox, Arctic (Blue and White Phase):	
No limit	July 1–June 30.
Fox, Red (including Cross, Black and Silver Phases):	
2 foxes	Sep. 1–Feb. 28.
Mink and Weasel:	
No limit	Nov. 10–Feb. 28.
Muskrat:	
No limit	Nov. 10–June 10.

Harvest limits	Open season
Otter:	
No limit	Nov. 10–Mar. 31.
Wolf:	
No limit	Nov. 10–Mar. 31.
Wolverine:	
No limit	Nov. 10–Feb. 28.

(11) *Unit 11.* Unit 11 consists of that area draining into the headwaters of the Copper River south of Suslota Creek and the area drained by all tributaries into the east bank of the Copper River between the confluence of Suslota Creek with the Slana River and Miles Glacier.

(i) Unit-specific regulations:

(A) You may use bait to hunt black and brown bear between April 15 and June 15.

(B) One moose without calf may be taken from June 20–July 31 in the Wrangell-St. Elias National Park and Preserve in Unit 11 or 12 for the Batzulnetas Culture Camp. Two hunters from either Chistochina or Mentasta Village may be designated by the Mt. Sanford Tribal Consortium to receive the Federal subsistence harvest permit. The permit may be obtained from a Wrangell-St. Elias National Park and Preserve office.

(ii) A joint permit may be issued to a pair of a minor and an elder to hunt sheep during the Aug. 1–Oct. 20 hunt. The following conditions apply:

(A) The permittees must be a minor aged 8 to 15 years old and an accompanying adult 60 years of age or older.

(B) Both the elder and the minor must be Federally qualified subsistence users with a positive customary and traditional use determination for the area they want to hunt.

(C) The minor must hunt under the direct immediate supervision of the accompanying adult, who is responsible for ensuring that all legal requirements are met.

(D) Only one animal may be harvested with this permit. The sheep harvested will count against the harvest limits of both the minor and accompanying adult.

Harvest limits	Open season
Hunting	
Black Bear:	
3 bears	July 1–June 30.
Brown Bear:	
1 bear	Aug. 10–June 15.
Caribou:	No open season.
Sheep:	
1 ram	Aug. 10–Sep. 20.
1 sheep by Federal registration permit only by persons 60 years of age or older. Ewes accompanied by lambs or lambs may not be taken.	Aug. 1–Oct. 20.
Goat:	
Unit 11—that portion within the Wrangell-St. Elias National Park and Preserve that is bounded by the Chitina and Nizina rivers on the south, the Kennicott River and glacier on the southeast, and the Root Glacier on the east—1 goat by Federal registration permit only.	Aug. 25–Dec. 31.
Unit 11—the remainder of the Wrangell-St. Elias National Park and Preserve—1 goat by Federal registration permit only.	Aug. 10–Dec. 31.
Unit 11—that portion outside of the Wrangell-St. Elias National Park and Preserve	No open season.
Federal public lands will be closed by announcement of the Superintendent, Wrangell-St. Elias National Park and Preserve to the harvest of goats when a total of 45 goats has been harvested between Federal and State hunts.	
Moose:	
Unit 11—that portion draining into the east bank of the Copper River upstream from and including the Slana River drainage—1 antlered bull by joint Federal/State registration permit..	Aug. 20–Sep. 20.
Unit 11—that portion south and east of a line running along the north bank of the Chitina River, the north and west banks of the Nazina River, and the west bank of West Fork of the Nazina River, continuing along the western edge of the West Fork Glacier to the summit of Regal Mountain—1 bull by Federal registration permit. However, during the period Aug. 20–Sep. 20, only an antlered bull may be taken.	Aug. 20–Sep. 20. Nov. 20–Dec. 20.
Unit 11, remainder—1 antlered bull by Federal registration permit only	Aug. 20–Sep. 20.
Muskrat:	
No limit	Sep. 20–June 10.
Beaver:	
1 beaver per day, 1 in possession	June 1–Oct. 10.
Coyote:	
10 coyotes	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sep. 1–Mar. 15.
Hare (Snowshoe):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Nov. 10–Feb. 28.
Wolf:	
10 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sep. 1–Jan. 31.
Grouse (Spruce, Ruffed, and Sharp-tailed):	

Harvest limits	Open season
15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession.	Aug. 10–Mar. 31.
Trapping	
Beaver:	
No limit	Sep. 25–May 31.
Coyote:	
No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 10–Feb. 28.
Lynx:	
No limit	Nov. 10–Feb. 28.
Marten:	
No limit	Nov. 10–Feb. 28.
Mink and Weasel:	
No limit	Nov. 10–Feb. 28.
Muskrat:	
No limit	Nov. 10–June 10.
Otter:	
No limit	Nov. 10–Mar. 31.
Wolf:	
No limit	Nov. 10–Mar. 31.
Wolverine:	
No limit	Nov. 10–Feb. 28.

(12) *Unit 12.* Unit 12 consists of the Tanana River drainage upstream from the Robertson River, including all drainages into the east bank of the Robertson River, and the White River drainage in Alaska, but excluding the Ladue River drainage.

(i) Unit-specific regulations:

(A) You may use bait to hunt black and brown bear between April 15 and June 30; you may use bait to hunt wolves on FWS and BLM lands.

(B) You may not use a steel trap, or a snare using cable smaller than 3/32-inch diameter to trap coyotes or wolves in Unit 12 during April and October.

(C) One moose without calf may be taken from June 20–July 31 in the Wrangell-St. Elias National Park and Preserve in Unit 11 or 12 for the Batzulnetas Culture Camp. Two hunters from either Chistochina or Mentasta Village may be designated by the Mt. Sanford Tribal Consortium to receive the Federal subsistence harvest permit. The permit may be obtained from a Wrangell-St. Elias National Park and Preserve office.

(ii) A joint permit may be issued to a pair of a minor and an elder to hunt sheep during the Aug. 1–Oct. 20 hunt. The following conditions apply:

(A) The permittees must be a minor aged 8 to 15 years old and an accompanying adult 60 years of age or older.

(B) Both the elder and the minor must be Federally qualified subsistence users with a positive customary and traditional use determination for the area they want to hunt.

(C) The minor must hunt under the direct immediate supervision of the accompanying adult, who is responsible for ensuring that all legal requirements are met.

(D) Only one animal may be harvested with this permit. The sheep harvested will count against the harvest limits of both the minor and accompanying adult.

Harvest limits	Open season
Hunting	
Black Bear:	
3 bears	Aug. 10–June 30.
Brown Bear:	
1 bear	Aug. 10–June 30.
Caribou:	
Unit 12—that portion within the Wrangell–St. Elias National Park that lies west of the Nabesna River and the Nabesna Glacier. All hunting of caribou is prohibited on Federal public lands.	No open season.
Unit 12—that portion east of the Nabesna River and the Nabesna Glacier and south of the Winter Trail running southeast from Pickerel Lake to the Canadian border—1 bull by Federal registration permit only. Federal public lands are closed to the harvest of caribou except by Federally qualified subsistence users hunting under these regulations.	Aug. 10–Sep. 30.
Unit 12, remainder—1 bull	Sep. 1–20.
Unit 12, remainder—1 caribou may be taken by a Federal registration permit during a winter season to be announced. Dates for a winter season to occur between Oct. 1 and Apr. 30 and sex of animal to be taken will be announced by Tetlin National Wildlife Refuge Manager in consultation with Wrangell-St. Elias National Park and Preserve Superintendent, Alaska Department of Fish and Game area biologists, and Chairs of the Eastern Interior Regional Advisory Council and Upper Tanana/Fortymile Fish and Game Advisory Committee.	Winter season to be announced.
Sheep:	
Unit 12—1 ram with full curl or larger horn	Aug. 10–Sep. 20.

Harvest limits	Open season
Unit 12—that portion within Wrangell-St. Elias National Park and Preserve—1 ram with full curl horn or larger by Federal registration permit only by persons 60 years of age or older.	Aug. 1–Oct. 20.
Moose:	
Unit 12—that portion within the Tetlin National Wildlife Refuge and those lands within the Wrangell-St. Elias National Preserve north and east of a line formed by the Pickerel Lake Winter Trail from the Canadian border to Pickerel Lake—1 antlered bull by Federal registration permit.	Aug. 24–Sep. 20. Nov. 1–Feb. 28.
Unit 12—that portion east of the Nabesna River and Nabesna Glacier, and south of the Winter Trail running southeast from Pickerel Lake to the Canadian border—1 antlered bull.	Aug. 24–Sep. 30.
Unit 12, remainder—1 antlered bull by joint Federal/State registration permit only	Aug. 20–Sep. 20.
Beaver:	
Unit 12—Wrangell-Saint Elias National Park and Preserve—6 beaver per season. Meat from harvested beaver must be salvaged for human consumption.	Sep. 20–May 15.
Coyote:	
10 coyotes	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sep. 1–Mar. 15.
Hare (Snowshoe):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Nov. 1–Mar. 15.
Wolf:	
10 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sep. 1–Mar. 31
Grouse (Spruce, Ruffed, and Sharp-tailed):	
15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver:	
No limit. Hide or meat must be salvaged. Traps, snares, bow and arrow, or firearms may be used	Sep. 15–Jun 10.
Coyote:	
No limit	Oct. 15–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 1–Feb. 28.
Lynx:	
No limit	Nov. 1–Mar. 15.
Marten:	
No limit	Nov. 1–Feb. 28.
Mink and Weasel:	
No limit	Nov. 1–Feb. 28.
Muskrat:	
No limit	Sep. 20–June 10.
Otter:	
No limit	Nov. 1–Apr. 15.
Wolf:	
No limit	Oct. 1–Apr. 30.
Wolverine:	
No limit	Nov. 1–Feb. 28.

(13) *Unit 13.* (i) Unit 13 consists of that area westerly of the east bank of the Copper River and drained by all tributaries into the west bank of the Copper River from Miles Glacier and including the Slana River drainages north of Suslota Creek; the drainages into the Delta River upstream from Falls Creek and Black Rapids Glacier; the drainages into the Nenana River upstream from the southeastern corner of Denali National Park at Windy; the drainage into the Susitna River upstream from its junction with the Chulitna River; the drainage into the east bank of the Chulitna River upstream to its confluence with Tokositna River; the drainages of the Chulitna River (south of Denali National Park) upstream from its confluence with the Tokositna River; the drainages into the north bank of the Tokositna River upstream to the base of the Tokositna Glacier; the drainages into the Tokositna Glacier; the drainages into the east bank of the Susitna River between its confluences with the Talkeetna and Chulitna Rivers; the drainages into the north and east bank of the Talkeetna River including the Talkeetna River to its confluence with Clear Creek, the eastside drainages of a line going up the south bank of Clear Creek to the first unnamed creek on the south, then up that creek to lake 4408, along the northeastern shore of lake 4408, then southeast in a straight line to the northernmost fork of the Chickaloon River; the drainages into the east bank of the Chickaloon River below the line from lake 4408; the drainages of the Matanuska River above its confluence with the Chickaloon River:

(A) Unit 13A consists of that portion of Unit 13 bounded by a line beginning at the Chickaloon River bridge at Mile 77.7 on the Glenn Highway, then along the Glenn Highway to its junction with the Richardson Highway, then south along the Richardson Highway to the foot of Simpson Hill at Mile 111.5, then east to the east bank of the Copper River, then northerly along the east bank of the Copper River to its junction with

the Gulkana River, then northerly along the west bank of the Gulkana River to its junction with the West Fork of the Gulkana River, then westerly along the west bank of the West Fork of the Gulkana River to its source, an unnamed lake, then across the divide into the Tyone River drainage, down an unnamed stream into the Tyone River, then down the Tyone River to the Susitna River, then down the south bank of the Susitna River to the mouth of Kosina Creek, then up Kosina Creek to its headwaters, then across the divide and down Aspen Creek to the Talkeetna River, then southerly along the boundary of Unit 13 to the Chickaloon River bridge, the point of beginning.

(B) Unit 13B consists of that portion of Unit 13 bounded by a line beginning at the confluence of the Copper River and the Gulkana River, then up the east bank of the Copper River to the Gakona River, then up the Gakona River and Gakona Glacier to the boundary of Unit 13, then westerly along the boundary of Unit 13 to the Susitna Glacier, then southerly along the west bank of the Susitna Glacier and the Susitna River to the Tyone River, then up the Tyone River and across the divide to the headwaters of the West Fork of the Gulkana River, then down the West Fork of the Gulkana River to the confluence of the Gulkana River and the Copper River, the point of beginning.

(C) Unit 13C consists of that portion of Unit 13 east of the Gakona River and Gakona Glacier.

(D) Unit 13D consists of that portion of Unit 13 south of Unit 13A.

(E) Unit 13E consists of the remainder of Unit 13.

(ii) Within the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) You may not take wildlife for subsistence uses on lands within Mount McKinley National Park as it existed prior to December 2, 1980. Subsistence uses as authorized by this paragraph (n)(13) are permitted in Denali National Preserve and lands added to Denali National Park on December 2, 1980.

(B) You may not use motorized vehicles or pack animals for hunting from Aug. 5–25 in the Delta Controlled Use Area, the boundary of which is defined as: a line beginning at the confluence of Miller Creek and the Delta River, then west to vertical angle benchmark Miller, then west to include all drainages of Augustana Creek and Black Rapids Glacier, then north and east to include all drainages of McGinnis Creek to its confluence with the Delta River, then east in a straight line across the Delta River to Mile 236.7 Richardson Highway, then north along the Richardson Highway to its junction with the Alaska Highway, then east along the Alaska Highway to the west bank of the Johnson River, then south along the west bank of the Johnson River and Johnson Glacier to the head of the Cantwell Glacier, then west along the north bank of the Cantwell Glacier and Miller Creek to the Delta River.

(C) Except for access and transportation of harvested wildlife on Sourdough and Haggard Creeks, Middle Fork trails, or other trails designated by the Board, you may not use motorized vehicles for subsistence hunting in the Sourdough Controlled Use Area. The Sourdough Controlled Use Area consists of that portion of Unit 13B bounded by a line beginning at the confluence of Sourdough Creek and the Gulkana River, then northerly along Sourdough Creek to the Richardson Highway at approximately Mile 148, then northerly along the Richardson Highway to the Middle Fork Trail at approximately Mile 170, then westerly along the trail to the Gulkana River, then southerly along the east bank of the Gulkana River to its confluence with Sourdough Creek, the point of beginning.

(D) You may not use any motorized vehicle or pack animal for hunting, including the transportation of hunters, their hunting gear, and/or parts of game from July 26–September 30 in the Tonsina Controlled Use Area. The Tonsina Controlled Use Area consists of that portion of Unit 13D bounded on the west by the Richardson Highway from the Tiekel River to the Tonsina River at Tonsina, on the north along the south bank of the Tonsina River to where the Edgerton Highway crosses the Tonsina River, then along the Edgerton Highway to Chitina, on the east by the Copper River from Chitina to the Tiekel River, and on the south by the north bank of the Tiekel River.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15.

(B) Upon written request by the Camp Director to the Glennallen Field Office, 2 caribou, sex to be determined by the Glennallen Field Office Manager of the BLM, may be taken from Aug. 10–Sep. 30 or Oct. 21–Mar. 31 by Federal registration permit for the Hudson Lake Residential Treatment Camp. Additionally, 1 bull moose may be taken Aug. 1–Sep. 20. The animals may be taken by any Federally qualified hunter designated by the Camp Director. The hunter must have in his/her possession the permit and a designated hunter permit during all periods that are being hunted.

Harvest limits	Open season
Hunting	
Black Bear:	
3 bears	July 1–June 30.
Brown Bear:	
1 bear. Bears taken within Denali National Park must be sealed within 5 days of harvest. That portion within Denali National Park will be closed by announcement of the Superintendent after 4 bears have been harvested.	Aug. 10–May 31.
Caribou:	
Unit 13A and 13B—2 caribou by Federal registration permit only. The sex of animals that may be taken will be announced by the Glennallen Field Office Manager of the Bureau of Land Management in consultation with the Alaska Department of Fish and Game area biologist and Chairs of the Eastern Interior Regional Advisory Council and the Southcentral Regional Advisory Council.	
Unit 13, remainder—2 bulls by Federal registration permit only	Aug. 1–Sep. 30. Oct. 21–Mar. 31.
Sheep:	
Unit 13, excluding Unit 13D and the Tok Management Area and Delta Controlled Use Area—1 ram with 7/8 curl or larger horn.	Aug. 10–Sep. 20.
Moose:	
Unit 13E—1 antlered bull moose by Federal registration permit only; only 1 permit will be issued per household	Aug. 1–Sep. 20.
Unit 13, remainder—1 antlered bull moose by Federal registration permit only	Aug. 1–Sep. 20.
Beaver:	
1 beaver per day, 1 in possession	June 15–Sep. 10.

Harvest limits	Open season
Coyote:	
10 coyotes	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sep. 1–Mar. 15.
Hare (Snowshoe):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Nov. 10–Feb. 28.
Wolf:	
10 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sep. 1–Jan. 31.
Grouse (Spruce, Ruffed, and Sharp-tailed):	
15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Mar. 31.
Trapping	
Beaver:	
No limit	Sep. 25–May 31.
Coyote:	
No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 10–Feb. 28.
Lynx:	
No limit	Nov. 10–Feb. 28.
Marten:	
Unit 13—No limit	Nov. 10–Feb. 28.
Mink and Weasel:	
No limit	Nov. 10–Feb. 28.
Muskrat:	
No limit	Sep. 25–June 10.
Otter:	
No limit	Nov. 10–Mar. 31.
Wolf:	
No limit	Oct. 15–Apr. 30.
Wolverine:	
No limit	Nov. 10–Jan. 31.

(14) *Unit 14.* (i) Unit 14 consists of drainages into the northern side of Turnagain Arm west of and excluding the Portage Creek drainage, drainages into Knik Arm excluding drainages of the Chickaloon and Matanuska Rivers in Unit 13, drainages into the northern side of Cook Inlet east of the Susitna River, drainages into the east bank of the Susitna River downstream from the Talkeetna River, and drainages into the south and west bank of the Talkeetna River to its confluence with Clear Creek, the western side drainages of a line going up the south bank of Clear Creek to the first unnamed creek on the south, then up that creek to lake 4408, along the northeastern shore of lake 4408, then southeast in a straight line to the northernmost fork of the Chickaloon River:

(A) Unit 14A consists of drainages in Unit 14 bounded on the west by the east bank of the Susitna River, on the north by the north bank of Willow Creek and Peters Creek to its headwaters, then east along the hydrologic divide separating the Susitna River and Knik Arm drainages to the outlet creek at lake 4408, on the east by the eastern boundary of Unit 14, and on the south by Cook Inlet, Knik Arm, the south bank of the Knik River from its mouth to its junction with Knik Glacier, across the face of Knik Glacier and along the northern side of Knik Glacier to the Unit 6 boundary;

(B) Unit 14B consists of that portion of Unit 14 north of Unit 14A;

(C) Unit 14C consists of that portion of Unit 14 south of Unit 14A.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) You may not take wildlife for subsistence uses in the Fort Richardson and Elmendorf Air Force Base Management Areas, consisting of the Fort Richardson and Elmendorf Military Reservations;

(B) You may not take wildlife for subsistence uses in the Anchorage Management Area, consisting of all drainages south of Elmendorf and Fort Richardson military reservations and north of and including Rainbow Creek.

(iii) Unit-specific regulations:

Harvest limits	Open season
Hunting	
Black Bear:	
Unit 14C—1 bear	July 1–June 30.
Beaver:	
Unit 14C—1 beaver per day, 1 in possession	May 15–Oct. 31.
Coyote:	

Harvest limits	Open season
Unit 14C—2 coyotes	Sep. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
Unit 14C—2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe):	
Unit 14C—5 hares per day	Sep. 8–Apr. 30.
Lynx:	
Unit 14C—2 lynx	Dec. 1–Jan. 31.
Wolf:	
Unit 14C—5 wolves	Aug. 10–Apr. 30.
Wolverine:	
Unit 14C—1 wolverine	Sep. 1–Mar. 31.
Grouse (Spruce and Ruffed):	
Unit 14C—5 per day, 10 in possession	Sep. 8–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed):	
Unit 14C—10 per day, 20 in possession	Sep. 8–Mar. 31.
Trapping	
Beaver:	
Unit 14C—that portion within the drainages of Glacier Creek, Kern Creek, Peterson Creek, the Twentymile River and the drainages of Knik River outside Chugach State Park—20 beaver per season.	Dec. 1–Apr. 15.
Coyote:	
Unit 14C—No limit	Nov. 10–Feb. 28.
Fox, Red (including Cross, Black and Silver Phases):	
Unit 14C—1 fox	Nov. 10–Feb. 28.
Lynx:	
Unit 14C—No limit	Dec. 15–Jan. 31.
Marten:	
Unit 14C—No limit	Nov. 10–Jan. 31.
Mink and Weasel:	
Unit 14C—No limit	Nov. 10–Jan. 31.
Muskrat:	
Unit 14C—No limit	Nov. 10–May 15.
Otter:	
Unit 14C—No limit	Nov. 10–Feb. 28.
Wolf:	
Unit 14C—No limit	Nov. 10–Feb. 28.
Wolverine:	
Unit 14C—2 wolverines	Nov. 10–Jan. 31.

(15) *Unit 15.* (i) Unit 15 consists of that portion of the Kenai Peninsula and adjacent islands draining into the Gulf of Alaska, Cook Inlet, and Turnagain Arm from Gore Point to the point where longitude line 150°00′ W. crosses the coastline of Chickaloon Bay in Turnagain Arm, including that area lying west of longitude line 150°00′ W. to the mouth of the Russian River, then southerly along the Chugach National Forest boundary to the upper end of Upper Russian Lake; and including the drainages into Upper Russian Lake west of the Chugach National Forest boundary:

(A) Unit 15A consists of that portion of Unit 15 north of the north bank of the Kenai River and the northern shore of Skilak Lake;

(B) Unit 15B consists of that portion of Unit 15 south of the north bank of the Kenai River and the northern shore of Skilak Lake, and north of the north bank of the Kasilof River, the northern shore of Tustumena Lake, Glacier Creek, and Tustumena Glacier;

(C) Unit 15C consists of the remainder of Unit 15.

(ii) You may not take wildlife, except for grouse, ptarmigan, and hares that may be taken only from October 1 through March 1 by bow and arrow only, in the Skilak Loop Management Area, which consists of that portion of Unit 15A bounded by a line beginning at the easternmost junction of the Sterling Highway and the Skilak Loop (milepost 76.3), then due south to the south bank of the Kenai River, then southerly along the south bank of the Kenai River to its confluence with Skilak Lake, then westerly along the northern shore of Skilak Lake to Lower Skilak Lake Campground, then northerly along the Lower Skilak Lake Campground Road and the Skilak Loop Road to its westernmost junction with the Sterling Highway, then easterly along the Sterling Highway to the point of beginning.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15;

(B) You may not trap furbearers for subsistence in the Skilak Loop Wildlife Management Area;

(C) You may not trap marten in that portion of Unit 15B east of the Kenai River, Skilak Lake, Skilak River, and Skilak Glacier;

(D) You may not take red fox in Unit 15 by any means other than a steel trap or snare.

Harvest limits	Open season
Hunting	
Black Bear:	
Units 15A and 15B—2 bears by Federal registration permit	July 1–June 30.
Unit 15C—3 bears	July 1–June 30.

Harvest limits	Open season
Brown Bear:	
Unit 15—1 bear every 4 regulatory years by Federal registration permit. The season may be opened or closed by announcement from the Kenai National Wildlife Refuge Manager after consultation with ADF&G and the Chair of the Southcentral Alaska Subsistence Regional Advisory Council.	Sep. 1–Nov. 30, to be announced and Apr. 1–June 15, to be announced.
Moose:	
Unit 15A—Skilak Loop Wildlife Management Area	No open season.
Unit 15A, remainder, 15B, and 15C—1 antlered bull with spike-fork or 50-inch antlers or with 3 or more brow tines on either antler, by Federal registration permit only.	Aug. 10–Sep. 20.
Units 15B and 15C—1 antlered bull with spike-fork or 50-inch antlers or with 3 or more brow tines on either antler, by Federal registration permit only. The Kenai NWR Refuge Manager is authorized to close the October–November season based on conservation concerns, in consultation with ADF&G and the Chair of the Southcentral Alaska Subsistence Regional Advisory Council.	Oct. 20–Nov. 10.
Unit 15C—1 cow by Federal registration permit only	Aug. 10–Sep. 20.
Coyote:	
No limit	Sep. 1–Apr. 30.
Hare (Snowshoe):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Nov. 10–Jan. 31.
Wolf:	
Unit 15—that portion within the Kenai National Wildlife Refuge—2 wolves.	Aug. 10–Apr. 30.
Unit 15, remainder—5 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sep. 1–Mar. 31.
Grouse (Spruce):	
15 per day, 30 in possession	Aug. 10–Mar. 31.
Grouse (Ruffed)	No open season.
Ptarmigan (Rock, Willow, and White-tailed):	
Unit 15A and 15B—20 per day, 40 in possession	Aug. 10–Mar. 31.
Unit 15C—20 per day, 40 in possession	Aug. 10–Dec. 31.
Unit 15C—5 per day, 10 in possession	Jan. 1–Mar. 31.
Trapping	
Beaver:	
20 beaver per season	Nov. 10–Mar. 31.
Coyote:	
No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
1 Fox	Nov. 10–Feb. 28.
Lynx:	
No limit	Jan. 1–31.
Marten:	
Unit 15B—that portion east of the Kenai River, Skilak Lake, Skilak River, and Skilak Glacier	No open season.
Remainder of Unit 15—No limit	Nov. 10–Jan. 31.
Mink and Weasel:	
No limit	Nov. 10–Jan. 31.
Muskrat:	
No limit	Nov. 10–May 15.
Otter:	
Unit 15—No limit	Nov. 10–Feb. 28.
Wolf:	
No limit	Nov. 10–Mar. 31.
Wolverine:	
Unit 15B and C—No limit	Nov. 10–Feb. 28.

(16) *Unit 16.* (i) Unit 16 consists of the drainages into Cook Inlet between Redoubt Creek and the Susitna River, including Redoubt Creek drainage, Kalgin Island, and the drainages on the western side of the Susitna River (including the Susitna River) upstream to its confluence with the Chulitna River; the drainages into the western side of the Chulitna River (including the Chulitna River) upstream to the Tokositna River, and drainages into the southern side of the Tokositna River upstream to the base of the Tokositna Glacier, including the drainage of the Kahiltna Glacier:

(A) Unit 16A consists of that portion of Unit 16 east of the east bank of the Yentna River from its mouth upstream to the Kahiltna River, east of the east bank of the Kahiltna River, and east of the Kahiltna Glacier;

(B) Unit 16B consists of the remainder of Unit 16.

(ii) You may not take wildlife for subsistence uses in the Mount McKinley National Park, as it existed prior to December 2, 1980. Subsistence uses as authorized by this paragraph (n)(16) are permitted in Denali National Preserve and lands added to Denali National Park on December 2, 1980.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15.

(B) [Reserved].

Harvest limits	Open season
Hunting	
Black Bear:	
3 bears	July 1–June 30.
Caribou:	
1 caribou	Aug. 10–Oct. 31.
Moose:	
Unit 16B—Redoubt Bay Drainages south and west of, and including the Kustatan River drainage—1 bull	Sep. 1–15.
Unit 16B—Denali National Preserve only—1 bull by Federal registration permit. One Federal registration permit for moose issued per household.	Sep. 1–30. Dec. 1–Feb. 28.
Unit 16B, remainder—1 bull.	Sep. 1–30. Dec. 1–Feb. 28.
Coyote:	
2 coyotes	Sep. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
2 foxes	Sep. 1–Feb. 15.
Hare (Snowshoe):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Dec. 1–Jan. 31.
Wolf:	
5 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sep. 1–Mar. 31.
Grouse (Spruce and Ruffed):	
15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession.	Aug. 10–Mar. 31.
Trapping	
Beaver:	
No limit	Oct. 10–May 15.
Coyote:	
No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 10–Feb. 28.
Lynx:	
No limit	Dec. 15–Jan. 31.
Marten:	
No limit	Nov. 10–Feb. 28.
Mink and Weasel:	
No limit	Nov. 10–Jan. 31.
Muskrat:	
No limit	Nov. 10–June 10.
Otter:	
No limit	Nov. 10–Mar. 31.
Wolf:	
No limit	Nov. 10–Mar. 31.
Wolverine:	
No limit	Nov. 10–Feb. 28.

(17) *Unit 17.* (i) Unit 17 consists of drainages into Bristol Bay and the Bering Sea between Etolin Point and Cape Newenham, and all islands between these points including Hagemeister Island and the Walrus Islands:

(A) Unit 17A consists of the drainages between Cape Newenham and Cape Constantine, and Hagemeister Island and the Walrus Islands;

(B) Unit 17B consists of the Nushagak River drainage upstream from, and including the Mulchatna River drainage and the Wood River drainage upstream from the outlet of Lake Beverley;

(C) Unit 17C consists of the remainder of Unit 17.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) Except for aircraft and boats and in legal hunting camps, you may not use any motorized vehicle for hunting ungulates, bear, wolves, and wolverine, including transportation of hunters and parts of ungulates, bear, wolves, or wolverine in the Upper Mulchatna Controlled Use Area consisting of Unit 17B, from Aug. 1–Nov. 1.

(B) [Reserved].

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15.

(B) You may hunt brown bear by State registration permit in lieu of a resident tag if you have obtained a State registration permit prior to hunting.

(C) If you have a trapping license, you may use a firearm to take beaver in Unit 17 from April 15–May 31. You may not take beaver with a firearm under a trapping license on National Park Service lands.

Harvest limits	Open season
Hunting	
Black Bear:	
2 bears	Aug. 1–May 31.
Brown Bear:	
Unit 17—1 bear by State registration permit only	Sep. 1–May 31.
Caribou:	
Unit 17A—all drainages west of Right Hand Point—2 caribou by State registration permit; no more than 1 caribou may be a bull, and no more than 1 caribou may be taken Aug. 1–Jan. 31.	Aug. 1–Mar. 31.
Units 17A and 17C—that portion of 17A and 17C consisting of the Nushagak Peninsula south of the Igushik River, Tuklung River and Tuklung Hills, west to Tvativak Bay—up to 5 caribou by Federal registration permit. Public lands are closed to the taking of caribou except by residents of Togiak, Twin Hills, Manokotak, Aleknagik, Dillingham, Clark's Point, and Ekuk hunting under these regulations.	Aug. 1–Mar. 31.
Units 17A remainder and 17C remainder—selected drainages; a harvest limit of up to 2 caribou by State registration permit will be determined at the time the season is announced.	Season may be announced between Aug. 1–Mar. 31.
Units 17B and 17C—that portion of 17C east of the Wood River and Wood River Lakes—2 caribou by State registration permit; no more than 1 caribou may be a bull, and no more than 1 caribou from Aug. 1–Jan 31.	Aug. 1–Mar. 31.
Sheep:	
1 ram with full curl or larger horn	Aug. 10–Sep. 20.
Moose:	
Unit 17A—1 bull by State registration permit	Aug. 25–Sep. 20.
Unit 17A—up to 2 moose; one antlered bull by State registration permit, one antlerless moose by State registration permit.	Up to a 31-day season may be announced between Dec. 1–last day of Feb.
Units 17B and 17C—one bull	Aug. 20–Sep. 15.
During the period Aug. 20–Sep. 15—one bull by State registration permit; or During the period Sep. 1–15—one bull with spike-fork or 50-inch antlers or antlers with three or more brow tines on at least one side with a State harvest ticket; or During the period Dec. 1–31—one antlered bull by State registration permit.	Dec. 1–31.
Coyote:	
2 coyotes	Sep. 1–Apr. 30.
Fox, Arctic (Blue and White Phase):	
No limit	Dec. 1–Mar. 15.
Fox, Red (including Cross, Black and Silver Phases):	
2 foxes	Sep. 1–Feb. 15.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Nov. 10–Feb. 28.
Wolf:	
10 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sep. 1–Mar. 31.
Grouse (Spruce and Ruffed):	
15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock and Willow):	
20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver:	
Unit 17—No limit	Oct. 10–Mar. 31.
Unit 17—2 beaver per day. Only firearms may be used	Apr. 15–May 31.
Coyote:	
No limit	Nov. 10–Mar. 31.
Fox, Arctic (Blue and White Phase):	
No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 10–Mar. 31.
Lynx:	
No limit	Nov. 10–Mar. 31.
Marten:	
No limit	Nov. 10–Feb. 28.
Mink and Weasel:	
No limit	Nov. 10–Feb. 28.
Muskrat:	
2 muskrats	Nov. 10–Feb. 28.
Otter:	
No limit	Nov. 10–Mar. 31.
Wolf:	
No limit	Nov. 10–Mar. 31.
Wolverine:	

Harvest limits	Open season
No limit	Nov. 10–Feb. 28.

(18) *Unit 18.* (i) Unit 18 consists of that area draining into the Yukon and Kuskokwim Rivers westerly and downstream from a line starting at the downriver boundary of Paimiut on the north bank of the Yukon River then south across the Yukon River to the northern terminus of the Paimiut Portage, then south along the Paimiut Portage to its intersection with Arhymot Lake, then south along the northern and western bank of Arhymot Lake to the outlet at Crooked Creek (locally known as Johnson River), then along the south bank of Crooked Creek downstream to the northern terminus of Crooked Creek to the Yukon-Kuskokwim Portage (locally known as the Mud Creek Tramway), then along the west side of the tramway to Mud Creek, then along the westerly bank of Mud Creek downstream to an unnamed slough of the Kuskokwim River (locally known as First Slough or Kalskag Slough), then along the west bank of this unnamed slough downstream to its confluence with the Kuskokwim River, then southeast across the Kuskokwim River to its southerly bank, then along the south bank of the Kuskokwim River upriver to the confluence of a Kuskokwim River slough locally known as Old River, then across Old River to the downriver terminus of the island formed by Old River and the Kuskokwim River, then along the north bank of the main channel of Old River to Igyalleq Creek (Whitefish Creek), then along the south and west bank of Igyalleq Creek to Whitefish Lake, then directly across Whitefish Lake to Ophir Creek, then along the west bank of Ophir Creek to its headwaters at 61°10.22′ N. lat., 159°46.05′ W. long., and the drainages flowing into the Bering Sea from Cape Newenham on the south to and including the Pastolik River drainage on the north; Nunivak, St. Matthews, and adjacent islands between Cape Newenham and the Pastolik River, and all seaward waters and lands within 3 miles of these coastlines.

(ii) In the Kalskag Controlled Use Area, which consists of that portion of Unit 18 bounded by a line from Lower Kalskag on the Kuskokwim River, northwesterly to Russian Mission on the Yukon River, then east along the north bank of the Yukon River to the old site of Paimiut, then back to Lower Kalskag, you are not allowed to use aircraft for hunting any ungulate, bear, wolf, or wolverine, including the transportation of any hunter and ungulate, bear, wolf, or wolverine part; however, this does not apply to transportation of a hunter or ungulate, bear, wolf, or wolverine part by aircraft between publicly owned airports in the Controlled Use Area or between a publicly owned airport within the Area and points outside the Area.

(iii) Unit-specific regulations:

(A) If you have a trapping license, you may use a firearm to take beaver in Unit 18 from April 1 through June 10.

(B) You may hunt brown bear by State registration permit in lieu of a resident tag if you have obtained a State registration permit prior to hunting.

(C) You may take caribou from a boat moving under power in Unit 18.

(D) You may take moose from a boat moving under power in that portion of Unit 18 west of a line running from the mouth of the Ishkowik River to the closest point of Dall Lake, then to the east bank of the Johnson River at its entrance into Nunavakanukakslak Lake (60°59.41′ N. Latitude; 162°22.14′ W. Longitude), continuing upriver along a line ½ mile south and east of, and paralleling a line along the southerly bank of the Johnson River to the confluence of the east bank of Crooked Creek, then continuing upriver to the outlet at Arhymot Lake, then following the south bank west to the Unit 18 border.

(E) Taking of wildlife in Unit 18 while in possession of lead shot size T, .20 caliber or less in diameter, is prohibited.

(F) You may not pursue with a motorized vehicle an ungulate that is at or near a full gallop.

(G) You may use artificial light when taking a bear at a den site.

Harvest limits	Open season
Hunting	
Black Bear:	
3 bears	July 1–June 30.
Brown Bear:	
1 bear by State registration permit only	Sep. 1–May 31.
Caribou:	
Unit 18—that portion to the east and south of the Kuskokwim River—2 caribou by State registration permit	Aug. 1–Mar. 15.
Unit 18, remainder—2 caribou by State registration permit	Aug. 1–Mar. 15.
Moose:	
Unit 18—that portion east of a line running from the mouth of the Ishkowik River to the closest point of Dall Lake, then to the east bank of the Johnson River at its entrance into Nunavakanukakslak Lake (60°59.41′ N. Latitude; 162°22.14′ W. Longitude), continuing upriver along a line ½ mile south and east of, and paralleling a line along the southerly bank of the Johnson River to the confluence of the east bank of Crooked Creek, then continuing upriver to the outlet at Arhymot Lake, then following the south bank east of the Unit 18 border and then north of and including the Eek River drainage—1 antlered bull by State registration permit; quotas will be announced annually by the Yukon Delta National Wildlife Refuge Manager.	Sep. 1–30.
Federal public lands are closed to the taking of moose except by residents of Tuntutuliak, Eek, Napakiak, Napaskiak, Kasigluk, Nunapitchuk, Atmautlauk, Oscarville, Bethel, Kwethluk, Akiachak, Akiak, Tuluksak, Lower Kalskag, and Kalskag.	
Unit 18—south of and including the Kanektok River drainages to the Goodnews River drainage. Federal public lands are closed to the taking of moose by all users.	No open season.
Unit 18—Goodnews River drainage and south to the Unit 18 boundary—1 antlered bull by State registration permit. Any needed closures will be announced by the Togiak National Wildlife Refuge Manager after consultation with BLM, ADF&G, and the Chair of the Yukon-Kuskokwim Delta Subsistence Regional Advisory Council.	Sep. 1–30.

Harvest limits	Open season
Unit 18, remainder—2 moose, only one of which may be antlered. Antlered bulls may not be harvested from Oct. 1 through Nov. 30.	Aug. 1–Mar. 31.
Beaver:	
No limit	July 1–June 30.
Coyote:	
2 coyotes	Sep. 1–Apr. 30.
Fox, Arctic (Blue and White Phase):	
2 foxes	Sep. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sep. 1–Mar. 15.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Lynx:	
5 lynx	Aug. 10–Apr. 30.
Wolf:	
10 wolves	Aug. 10–Apr. 30.
Wolverine:	
2 wolverine	Sep. 1–Mar. 31.
Grouse (Spruce and Ruffed):	
15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock and Willow):	
50 per day, 100 in possession.	Aug. 10–May 30.
Trapping	
Beaver:	
No limit	July 1–June 30.
Coyote:	
No limit	Nov. 10–Mar. 31.
Fox, Arctic (Blue and White Phase):	
No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 10–Mar. 31.
Lynx:	
No limit	Nov. 10–Mar. 31.
Marten:	
No limit	Nov. 10–Mar. 31.
Mink and Weasel:	
No limit	Nov. 10–Jan. 31.
Muskrat:	
No limit	Nov. 10–June 10.
Otter:	
No limit	Nov. 10–Mar. 31.
Wolf:	
No limit	Nov. 10–Mar. 31.
Wolverine:	
No limit.	Nov. 10–Mar. 31.

(19) *Unit 19.* (i) Unit 19 consists of the Kuskokwim River drainage upstream, excluding the drainages of Arhymot Lake, from a line starting at the outlet of Arhymot Lake at Crooked Creek (locally known as Johnson River), then along the south bank of Crooked Creek downstream to the northern terminus of Crooked Creek to the Yukon-Kuskokwim Portage (locally known as the Mud Creek Tramway), then along the west side of the tramway to Mud Creek, then along the westerly bank of Mud Creek downstream to an unnamed slough of the Kuskokwim River (locally known as First Slough or Kalskag Slough), then along the west bank of this unnamed slough downstream to its confluence with the Kuskokwim River, then southeast across the Kuskokwim River to its southerly bank, then along the south bank of the Kuskokwim River upriver to the confluence of a Kuskokwim River slough locally known as Old River, then across Old River to the downriver terminus of the island formed by Old River and the Kuskokwim River, then along the north bank of the main channel of Old River to Igyalleq Creek (Whitefish Creek), then along the south and west bank of Igyalleq Creek to Whitefish Lake, then directly across Whitefish Lake to Ophir Creek then along the west bank of Ophir Creek to its headwaters at 61°10.22′ N. lat., 159°46.05′ W. long.:

(A) Unit 19A consists of the Kuskokwim River drainage downstream from and including the Moose Creek drainage on the north bank and downstream from and including the Stony River drainage on the south bank, excluding Unit 19B;

(B) Unit 19B consists of the Aniak River drainage upstream from and including the Salmon River drainage, the Holitna River drainage upstream from and including the Bakbuk Creek drainage, that area south of a line from the mouth of Bakbuk Creek to the radar dome at Sparrevohn Air Force Base, including the Hoholitna River drainage upstream from that line, and the Stony River drainage upstream from and including the Can Creek drainage;

(C) Unit 19C consists of that portion of Unit 19 south and east of a line from Benchmark M#1.26 (approximately 1.26 miles south of the northwestern corner of the original Mt. McKinley National Park boundary) to the peak of Lone Mountain, then due west to Big River, including the Big River drainage

upstream from that line, and including the Swift River drainage upstream from and including the North Fork drainage.

(D) Unit 19D consists of the remainder of Unit 19.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) You may not take wildlife for subsistence uses on lands within Mount McKinley National Park as it existed prior to December 2, 1980. Subsistence uses as authorized by this paragraph (n)(19) are permitted in Denali National Preserve and lands added to Denali National Park on December 2, 1980.

(B) In the Upper Kuskokwim Controlled Use Area, which consists of that portion of Unit 19D upstream from the mouth of the Selatna River, but excluding the Selatna and Black River drainages, to a line extending from Dyckman Mountain on the northern Unit 19D boundary southeast to the 1,610-foot crest of Munsatli Ridge, then south along Munsatli Ridge to the 2,981-foot peak of Telida Mountain, then northeast to the intersection of the western boundary of Denali National Preserve with the Minchumina-Telida winter trail, then south along the western boundary of Denali National Preserve to the southern boundary of Unit 19D, you may not use aircraft for hunting moose, including transportation of any moose hunter or moose part; however, this does not apply to transportation of a moose hunter or moose part by aircraft between publicly owned airports in the Controlled Use Area, or between a publicly owned airport within the area and points outside the area.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 30.

(B) You may hunt brown bear by State registration permit in lieu of a resident tag in those portions of Units19A and 19B downstream of and including the Aniak River drainage if you have obtained a State registration permit prior to hunting.

(C) In Unit 19C, individual residents of Nikolai may harvest sheep during the Aug. 10 to Sep. 20 season and not have that animal count against the community harvest limit (during the Oct. 1 to Mar. 30 season). Individual residents of Nikolai that harvest a sheep under State regulations may not participate in the Oct. 1 to Mar. 30 community harvest.

Harvest limits	Open season
Hunting	
Black Bear:	
3 bears	July 1–June 30.
Brown Bear:	
Units 19A and 19B—those portions which are downstream of and including the Aniak River drainage—1 bear by State registration permit.	Aug. 10–June 30.
Unit 19A, remainder, 19B, remainder, and Unit 19D—1 bear	Aug. 10–June 30.
Caribou:	
Unit 19A—north of Kuskokwim River—2 caribou by State registration permit, no more than 1 caribou may be a bull; no more than 1 caribou may be taken from Aug. 1–Jan. 31.	Aug. 1–Mar. 15.
Unit 19A—south of the Kuskokwim River and Unit 19B (excluding rural Alaska residents of Lime Village)—2 caribou by State registration permit; no more than 1 caribou may be a bull; no more than 1 caribou may be taken Aug. 1–Jan. 31.	Aug. 1–Mar. 15.
Unit 19C—1 caribou	Aug. 10–Oct. 10.
Unit 19D—south and east of the Kuskokwim River and North Fork of the Kuskokwim River—1 caribou	Aug. 10–Sep. 30. Nov. 1–Jan. 31.
Unit 19D, remainder—1 caribou	Aug. 10–Sep. 30.
Unit 19—Residents domiciled in Lime Village only—no individual harvest limit but a village harvest quota of 200 caribou; cows and calves may not be taken from Apr. 1–Aug. 9. Reporting will be by a community reporting system.	July 1–June 30.
Sheep:	
1 ram with 7/8 curl horn or larger	Aug. 10–Sep. 20.
Unit 19C—that portion within the Denali National Park and Preserve–residents of Nikolai only—no individual harvest limit, but a community harvest quota will be set annually by the Denali National Park and Preserve Superintendent; rams or ewes without lambs only. Reporting will be by a community reporting system.	Oct. 1–Mar. 30.
Moose:	
Unit 19—Residents of Lime Village only—no individual harvest limit, but a village harvest quota of 28 bulls (including those taken under the State permits). Reporting will be by a community reporting system.	July 1–June 30.
Unit 19A—North of the Kuskokwim River, upstream from but excluding the George River drainage, and south of the Kuskokwim River upstream from and including the Downey Creek drainage, not including the Lime Village Management Area; Federal public lands are closed to the taking of moose.	No open season.
Unit 19A, remainder—1 antlered bull by Federal drawing permit or a State permit. Federal public lands are closed to the taking of moose except by residents of Tuluksak, Lower Kalskag, Upper Kalskag, Aniak, Chuathbaluk, and Crooked Creek hunting under these regulations. The Refuge Manager of the Yukon Delta NWR, in cooperation with the BLM Field Office Manager, will annually establish the harvest quota and number of permits to be issued in coordination with the State Tier I hunt. If the allowable harvest level is reached before the regular season closing date, the Refuge Manager, in consultation with the BLM Field Office Manager, will announce an early closure of Federal public lands to all moose hunting.	Sep. 1–20.
Unit 19B—1 bull with spike-fork or 50-inch antlers or antlers with 4 or more brow tines on one side	Sep. 1–20.
Unit 19C—1 antlered bull	Sep. 1–20.
Unit 19C—1 bull by State registration permit	Jan. 15–Feb. 15.
Unit 19D—that portion of the Upper Kuskokwim Controlled Use Area within the North Fork drainage upstream from the confluence of the South Fork to the mouth of the Swift Fork—1 antlered bull.	Sep. 1–30.
Unit 19D—remainder of the Upper Kuskokwim Controlled Use Area—1 bull	Sep. 1–30. Dec. 1–Feb. 28.
Unit 19D, remainder—1 antlered bull	Sep. 1–30. Dec. 1–15.
Coyote:	
10 coyotes	Aug. 10–Apr. 30.

Harvest limits	Open season
Fox, Red (including Cross, Black and Silver Phases):	
10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sep. 1–Mar. 15.
Hare (Snowshoe):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Nov. 1–Feb. 28.
Wolf:	
Unit 19D—10 wolves per day	Aug. 10–Apr. 30.
Unit 19, remainder—5 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sep. 1–Mar. 31.
Grouse (Spruce, Ruffed, and Sharp-tailed):	
15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver:	
No limit	Nov. 1–June 10.
Coyote:	
No limit	Nov. 1–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 1–Mar. 31.
Lynx:	
No limit	Nov. 1–Feb. 28.
Marten:	
No limit	Nov. 1–Feb. 28.
Mink and Weasel:	
No limit	Nov. 1–Feb. 28.
Muskrat:	
No limit	Nov. 1–June 10.
Otter:	
No limit	Nov. 1–Apr. 15.
Wolf:	
No limit	Nov. 1–Apr. 30.
Wolverine:	
No limit	Nov. 1–Mar. 31.

(20) *Unit 20.* (i) Unit 20 consists of the Yukon River drainage upstream from and including the Tozitna River drainage to and including the Hamlin Creek drainage, drainages into the south bank of the Yukon River upstream from and including the Charley River drainage, the Ladue River and Fortymile River drainages, and the Tanana River drainage north of Unit 13 and downstream from the east bank of the Robertson River:

(A) Unit 20A consists of that portion of Unit 20 bounded on the south by the Unit 13 boundary, bounded on the east by the west bank of the Delta River, bounded on the north by the north bank of the Tanana River from its confluence with the Delta River downstream to its confluence with the Nenana River, and bounded on the west by the east bank of the Nenana River.

(B) Unit 20B consists of drainages into the northern bank of the Tanana River from and including Hot Springs Slough upstream to and including the Banner Creek drainage.

(C) Unit 20C consists of that portion of Unit 20 bounded on the east by the east bank of the Nenana River and on the north by the north bank of the Tanana River downstream from the Nenana River.

(D) Unit 20D consists of that portion of Unit 20 bounded on the east by the east bank of the Robertson River and on the west by the west bank of the Delta River, and drainages into the north bank of the Tanana River from its confluence with the Robertson River downstream to, but excluding, the Banner Creek drainage.

(E) Unit 20E consists of drainages into the south bank of the Yukon River upstream from and including the Charley River drainage, and the Ladue River drainage.

(F) Unit 20F consists of the remainder of Unit 20.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) You may not take wildlife for subsistence uses on lands within Mount McKinley National Park as it existed prior to December 2, 1980. Subsistence uses as authorized by this paragraph (n)(20) are permitted in Denali National Preserve and lands added to Denali National Park on December 2, 1980.

(B) You may not use motorized vehicles or pack animals for hunting Aug. 5–25 in the Delta Controlled Use Area, the boundary of which is defined as: A line beginning at the confluence of Miller Creek and the Delta River, then west to vertical angle benchmark Miller, then west to include all drainages of Augustana Creek and Black Rapids Glacier, then north and east to include all drainages of McGinnis Creek to its confluence with the Delta River, then east in a straight line across the Delta River to Mile 236.7 of the Richardson Highway, then north along the Richardson Highway to its junction with the Alaska Highway, then east along the Alaska Highway to the west bank of the Johnson River, then south along the west bank of the Johnson River and Johnson Glacier to the head of the Canwell Glacier, then west along the north bank of the Canwell Glacier and Miller Creek to the Delta River.

(C) You may not use firearms, snowmobiles, licensed highway vehicles or motorized vehicles, except aircraft and boats, in the Dalton Highway Corridor Management Area, which consists of those portions of

Units 20, 24, 25, and 26 extending 5 miles from each side of the Dalton Highway from the Yukon River to milepost 300 of the Dalton Highway, except as follows: Residents living within the Dalton Highway Corridor Management Area may use snowmobiles only for the subsistence taking of wildlife. You may use licensed highway vehicles only on designated roads within the Dalton Highway Corridor Management Area. The residents of Alatna, Allakaket, Anaktuvuk Pass, Bettles, Evansville, Stevens Village, and residents living within the Corridor may use firearms within the Corridor only for subsistence taking of wildlife.

(D) You may not use any motorized vehicle for hunting August 5–September 20 in the Glacier Mountain Controlled Use Area, which consists of that portion of Unit 20E bounded by a line beginning at Mile 140 of the Taylor Highway, then north along the highway to Eagle, then west along the cat trail from Eagle to Crooked Creek, then from Crooked Creek southwest along the west bank of Mogul Creek to its headwaters on North Peak, then west across North Peak to the headwaters of Independence Creek, then southwest along the west bank of Independence Creek to its confluence with the North Fork of the Fortymile River, then easterly along the south bank of the North Fork of the Fortymile River to its confluence with Champion Creek, then across the North Fork of the Fortymile River to the south bank of Champion Creek and easterly along the south bank of Champion Creek to its confluence with Little Champion Creek, then northeast along the east bank of Little Champion Creek to its headwaters, then northeasterly in a direct line to Mile 140 on the Taylor Highway; however, this does not prohibit motorized access via, or transportation of harvested wildlife on, the Taylor Highway or any airport.

(E) You may by permit hunt moose on the Minto Flats Management Area, which consists of that portion of Unit 20 bounded by the Elliot Highway beginning at Mile 118, then northeasterly to Mile 96, then east to the Tolovana Hotsprings Dome, then east to the Winter Cat Trail, then along the Cat Trail south to the Old Telegraph Trail at Dunbar, then westerly along the trail to a point where it joins the Tanana River 3 miles above Old Minto, then along the north bank of the Tanana River (including all channels and sloughs except Swan Neck Slough), to the confluence of the Tanana and Tolovana Rivers and then northerly to the point of beginning.

(F) You may hunt moose only by bow and arrow in the Fairbanks Management Area. The Area consists of that portion of Unit 20B bounded by a line from the confluence of Rosie Creek and the Tanana River, northerly along Rosie Creek to Isberg Road, then northeasterly on Isberg Road to Cripple Creek Road, then northeasterly on Cripple Creek Road to the Parks Highway, then north on the Parks Highway to Alder Creek, then westerly to the middle fork of Rosie Creek through section 26 to the Parks Highway, then east along the Parks Highway to Alder Creek, then upstream along Alder Creek to its confluence with Emma Creek, then upstream along Emma Creek to its headwaters, then northerly along the hydrographic divide between Goldstream Creek drainages and Cripple Creek drainages to the summit of Ester Dome, then down Sheep Creek to its confluence with Goldstream Creek, then easterly along Goldstream Creek to Sheep Creek Road, then north on Sheep Creek Road to Murphy Dome Road, then west on Murphy Dome Road to Old Murphy Dome Road, then east on Old Murphy Dome Road to the Elliot Highway, then south on the Elliot Highway to Goldstream Creek, then easterly along Goldstream Creek to its confluence with First Chance Creek, Davidson Ditch, then southeasterly along the Davidson Ditch to its confluence with the tributary to Goldstream Creek in Section 29, then downstream along the tributary to its confluence with Goldstream Creek, then in a straight line to First Chance Creek, then up First Chance Creek to Tungsten Hill, then southerly along Steele Creek to its confluence with Ruby Creek, then upstream along Ruby Creek to Esro Road, then south on Esro Road to Chena Hot Springs Road, then east on Chena Hot Springs Road to Nordale Road, then south on Nordale Road to the Chena River, to its intersection with the Trans-Alaska Pipeline right of way, then southeasterly along the easterly edge of the Trans-Alaska Pipeline right of way to the Chena River, then along the north bank of the Chena River to the Moose Creek dike, then southerly along the Moose Creek dike to its intersection with the Tanana River, and then westerly along the north bank of the Tanana River to the point of beginning.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear April 15–June 30; you may use bait to hunt wolves on FWS and BLM lands.

(B) You may not use a steel trap or a snare using cable smaller than 3/32-inch diameter to trap coyotes or wolves in Unit 20E during April and October.

(C) Residents of Units 20 and 21 may take up to three moose per regulatory year for the celebration known as the Nuchalawoyya Potlatch, under the terms of a Federal registration permit. Permits will be issued to individuals at the request of the Native Village of Tanana only. This three-moose limit is not cumulative with that permitted by the State.

Harvest limits	Open season
Hunting	
Black Bear:	
3 bears	July 1–June 30.
Brown Bear	
Unit 20A—1 bear	Sep. 1–May 31.
Unit 20E—1 bear	Aug. 10–June 30.
Unit 20, remainder—1 bear	Sep. 1–May 31.
Caribou:	
Unit 20E—1 caribou A joint State/Federal registration permit is required. During the Aug. 10–Sep. 30 season, the harvest is restricted to 1 bull. The harvest quota for the period Aug. 10–29 in Units 20E, 20F, and 25C is 100 caribou. During the Nov. 1–Mar. 31 season, area closures or hunt restrictions may be announced when Nelchina caribou are present in a mix of more than 1 Nelchina caribou to 15 Fortymile caribou, except when the number of caribou present is low enough that fewer than 50 Nelchina caribou will be harvested regardless of the mixing ratio for the two herds.	Aug. 10–Sep. 30. Nov. 1–Mar. 31.
Unit 20F—north of the Yukon River—1 caribou	Aug. 10–Mar. 31.

Harvest limits	Open season
Unit 20F—east of the Dalton Highway and south of the Yukon River—1 caribou; a joint State/Federal registration permit is required. During the Aug. 10–Sep. 30 season, the harvest is restricted to 1 bull. The harvest quota for the period Aug. 10–29 in Units 20E, 20F, and 25C is 100 caribou.	Aug. 10–Sep. 30. Nov. 1–Mar. 31.
Moose:	
Unit 20A—1 antlered bull	Sep. 1–20.
Unit 20B—that portion within the Minto Flats Management Area—1 bull by Federal registration permit only	Sep. 1–20. Jan. 10–Feb. 28.
Unit 20B, remainder—1 antlered bull	Sep. 1–20.
Unit 20C—that portion within Denali National Park and Preserve west of the Toklat River, excluding lands within Mount McKinley National Park as it existed prior to December 2, 1980—1 antlered bull; however, white-phased or partial albino (more than 50 percent white) moose may not be taken.	Sep. 1–30. Nov. 15–Dec. 15
Unit 20C, remainder—1 antlered bull; however, white-phased or partial albino (more than 50 percent white) moose may not be taken.	Sep. 1–30.
Unit 20E—that portion within Yukon–Charley Rivers National Preserve—1 bull	Aug. 20–Sep. 30.
Unit 20E—that portion drained by the Middle Fork of the Fortymile River upstream from and including the Joseph Creek drainage—1 bull.	Aug. 20–Sep. 30.
Unit 20E, remainder—1 bull by joint Federal/State registration permit	Aug. 20–Sep. 30.
Unit 20F—that portion within the Dalton Highway Corridor Management Area—1 antlered bull by Federal registration permit only.	Sep. 1–25.
Unit 20F, remainder—1 antlered bull	Sep. 1–30. Dec. 1–10.
Sheep:	
Unit 20E—1 ram with full-curl horn or larger	Aug. 10–Sep. 20.
Unit 20, remainder	No open season.
Beaver:	
Unit 20E—Yukon–Charley Rivers National Preserve—6 beaver per season. Meat from harvested beaver must be salvaged for human consumption.	Sep. 20–May 15.
Coyote	
10 coyotes	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sep. 1–Mar. 15.
Hare (Snowshoe):	
No limit	July 1–June 30.
Lynx:	
Units 20A, 20B, and that portion of 20C east of the Teklanika River—2 lynx	Dec. 1–Jan. 31.
Unit 20E—2 lynx	Nov. 1–Jan. 31.
Unit 20, remainder—2 lynx	Dec. 1–Jan. 31.
Muskrat:	
Unit 20E, that portion within Yukon-Charley Rivers National Preserve—No limit	Sep. 20–June 10.
Unit 20C, that portion within Denali National Park and Preserve—25 muskrat	Nov. 1–June 10.
Unit 20, remainder	No open season.
Wolf:	
Unit 20—10 wolves	Aug. 10–Apr. 30.
Unit 20C, that portion within Denali National Park and Preserve—1 wolf during the Aug. 10–Oct. 31 period; 5 wolves during the Nov. 1–Apr. 30 period, for a total of 6 wolves for the season.	Aug. 10–Oct. 31. Nov. 1–Apr. 30.
Unit 20C, remainder—10 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sep. 1–Mar. 31.
Grouse (Spruce, Ruffed, and Sharp-tailed):	
Units 20A, 20B, 20C, 20E, and 20F—15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (Rock and Willow):	
Unit 20—those portions within 5 miles of Alaska Route 5 (Taylor Highway, both to Eagle and the Alaska-Canada boundary) and that portion of Alaska Route 4 (Richardson Highway) south of Delta Junction—20 per day, 40 in possession.	Aug. 10–Mar. 31.
Unit 20, remainder—20 per day, 40 in possession	Aug. 10–Apr. 30.

Trapping

Beaver:	
Units 20A, 20B, 20C, and 20F—No limit	Nov. 1–Apr. 15.
Unit 20E—No limit. Hide or meat must be salvaged. Traps, snares, bow and arrow, or firearms may be used	Sep. 15–June 10.
Coyote:	
Unit 20E—No limit	Oct. 15–Apr. 30.
Unit 20, remainder—No limit	Nov. 1–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 1–Feb. 28.
Lynx:	
Unit 20A, 20B, and 20C east of the Teklanika River—No limit	Dec. 15–Feb. 15.
Unit 20E—No limit	Nov. 1–Mar. 15.
Unit 20F and 20C, remainder—No limit	Nov. 1–Feb. 28.
Marten:	
No limit	Nov. 1–Feb. 28.
Mink and Weasel:	
No limit	Nov. 1–Feb. 28.

Harvest limits	Open season
Muskrat:	
Unit 20E—No limit	Sep. 20–June 10.
Unit 20, remainder—No limit	Nov. 1–June 10.
Otter:	
No limit	Nov. 1–Apr. 15.
Wolf:	
Units 20A, 20B, 20C, and 20F—No limit	Nov. 1–Apr. 30.
Unit 20E—No limit	Oct. 1–Apr. 30.
Wolverine:	
No limit	Nov. 1–Feb. 28.

(21) *Unit 21.* (i) Unit 21 consists of drainages into the Yukon River and Arhymot Lake upstream from a line starting at the downriver boundary of Paimiut on the north bank of the Yukon River then south across the Yukon River to the northern terminus of the Paimiut Portage, then south along the Portage to its intersection with Arhymot Lake, then south along the northern and western bank of Arhymot Lake to the outlet at Crooked Creek (locally known as Johnson River) drainage then to, but not including, the Tozitna River drainage on the north bank, and to but not including the Tanana River drainage on the south bank, and excluding the Koyukuk River drainage upstream from the Dulbi River drainage;

(A) Unit 21A consists of the Innoko River drainage upstream from and including the Iditarod River drainage.

(B) Unit 21B consists of the Yukon River drainage upstream from Ruby and east of the Ruby-Poorman Road, downstream from and excluding the Tozitna River and Tanana River drainages, and excluding the Melozitna River drainage upstream from Grayling Creek.

(C) Unit 21C consists of the Melozitna River drainage upstream from Grayling Creek, and the Dulbi River drainage upstream from and including the Cottonwood Creek drainage.

(D) Unit 21D consists of the Yukon River drainage from and including the Blackburn Creek drainage upstream to Ruby, including the area west of the Ruby-Poorman Road, excluding the Koyukuk River drainage upstream from the Dulbi River drainage, and excluding the Dulbi River drainage upstream from Cottonwood Creek.

(E) Unit 21E consists of that portion of Unit 21 in the Yukon River and Arhymot Lake drainages upstream from a line starting at the downriver boundary of Paimiut on the north bank of the Yukon River, then south across the Yukon River to the northern terminus of the Paimiut Portage, then south along the Portage to its intersection with Arhymot Lake, then along the northern and western bank of Arhymot Lake to the outlet at Crooked Creek (locally known as Johnson River) drainage, then to, but not including, the Blackburn Creek drainage, and the Innoko River drainage downstream from the Iditarod River drainage.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) The Koyukuk Controlled Use Area, which consists of those portions of Unit 21 and 24 bounded by a line from the north bank of the Yukon River at Koyukuk at 64°52.58′ N. lat., 157°43.10′ W. long., then northerly to the confluences of the Honhosa and Kateel Rivers at 65°28.42′ N. lat., 157°44.89′ W. long., then northeasterly to the confluences of Billy Hawk Creek and the Huslia River (65°57 N. lat., 156°41 W. long.) at 65°56.66′ N. lat., 156°40.81′ W. long., then easterly to the confluence of the forks of the Dakli River at 66°02.56′ N. lat., 156°12.71′ W. long., then easterly to the confluence of McLanes Creek and the Hogatza River at 66°00.31′ N. lat., 155°18.57′ W. long., then southwesterly to the crest of Hochandochtla Mountain at 65°31.87′ N. lat., 154°52.18′ W. long., then southwest to the mouth of Cottonwood Creek at 65°13.00′ N. lat., 156°06.43′ W. long., then southwest to Bishop Rock (Yistletaw) at 64°49.35′ N. lat., 157°21.73′ W. long., then westerly along the north bank of the Yukon River (including Koyukuk Island) to the point of beginning, is closed during moose hunting seasons to the use of aircraft for hunting moose, including transportation of any moose hunter or moose part; however, this does not apply to transportation of a moose hunter or moose part by aircraft between publicly owned airports in the controlled use area or between a publicly owned airport within the area and points outside the area; all hunters on the Koyukuk River passing the ADF&G-operated check station at Ella's Cabin (15 miles upstream from the Yukon on the Koyukuk River) are required to stop and report to ADF&G personnel at the check station.

(B) The Paradise Controlled Use Area, which consists of that portion of Unit 21 bounded by a line beginning at the old village of Paimiut, then north along the west bank of the Yukon River to Paradise, then northwest to the mouth of Stanstrom Creek on the Bonasila River, then northeast to the mouth of the Anvik River, then along the west bank of the Yukon River to the lower end of Eagle Island (approximately 45 miles north of Grayling), then to the mouth of the Iditarod River, then extending 2 miles easterly down the east bank of the Innoko River to its confluence with Paimiut Slough, then south along the east bank of Paimiut Slough to its mouth, and then to the old village of Paimiut, is closed during moose hunting seasons to the use of aircraft for hunting moose, including transportation of any moose hunter or part of moose; however, this does not apply to transportation of a moose hunter or part of moose by aircraft between publicly owned airports in the Controlled Use Area or between a publicly owned airport within the area and points outside the area.

(iii) In Unit 21D, you may hunt brown bear by State registration permit in lieu of a resident tag if you have obtained a State registration permit prior to hunting. Aircraft may not be used in any manner for brown bear hunting under the authority of a brown bear State registration permit, including transportation of hunters, bears, or parts of bears; however, this does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

(iv) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 30; and in the Koyukuk Controlled Use Area, you may also use bait to hunt black bear between September 1 and September 25.

(B) If you have a trapping license, you may use a firearm to take beaver in Unit 21(E) from Nov. 1–June 10.

(C) The residents of Units 20 and 21 may take up to three moose per regulatory year for the celebration known as the Nuchalawoyya Potlatch, under the terms of a Federal registration permit. Permits will be issued to individuals only at the request of the Native Village of Tanana. This three-moose limit is not cumulative with that permitted by the State.

(D) The residents of Unit 21 may take up to three moose per regulatory year for the celebration known as the Kaltag/Nulato Stickdance, under the terms of a Federal registration permit. Permits will be issued to individuals only at the request of the Native Village of Kaltag or Nulato. This three-moose limit is not cumulative with that permitted by the State.

Harvest limits	Open season
Hunting	
Black Bear:	
3 bears	July 1–June 30.
Brown Bear:	
Unit 21D—1 bear by State registration permit only	Aug. 10–June 30.
Unit 21, remainder—1 bear	Aug. 10–June 30.
Caribou:	
Unit 21A—1 caribou	Aug. 10–Sep. 30. Dec. 10–20.
Unit 21B—that portion north of the Yukon River and downstream from Ukawutni Creek	No open season.
Unit 21C—the Dulbi and Melozitna River drainages downstream from Big Creek	No open season.
Unit 21B remainder, 21C remainder, and 21E—1 caribou	Aug. 10–Sep. 30.
Unit 21D—north of the Yukon River and east of the Koyukuk River—caribou may be taken during a winter season to be announced.	Winter season to be announced.
Unit 21D, remainder—5 caribou per day, as follows: Calves may not be taken.	
Bulls may be harvested	July 1–Oct. 14. Feb. 1–June 30.
Cows may be harvested	Sep. 1–Mar. 31.
Moose:	
Unit 21B—that portion within the Nowitna National Wildlife Refuge downstream from and including the Little Mud River drainage—1 bull. A State registration permit is required from Sep. 5–25. A Federal registration permit is required from Sep. 26–Oct. 1.	Sep. 5–Oct. 1
Unit 21B—that portion within the Nowitna National Wildlife Refuge downstream from and including the Little Mud River drainage—1 antlered bull. A Federal registration permit is required during the 5-day season and will be limited to one per household.	Five-day season to be announced between Dec. 1 and Mar. 31.
Unit 21A and 21B, remainder—1 bull	Aug. 20–Sep. 25. Nov. 1–30.
Unit 21C—1 antlered bull	Sep. 5–25.
Unit 21D—Koyukuk Controlled Use Area—1 bull; 1 antlerless moose by Federal permit if authorized by announcement by the Koyukuk/Nowitna NWR manager. Harvest of cow moose accompanied by calves is prohibited. A harvestable surplus of cows will be determined for a quota.	Sep. 1–25. Mar. 1–5 season to be announced.
or	
1 antlered bull by Federal permit, if there is no Mar. 1–5 season and if authorized by announcement by the Koyukuk/Nowitna NWR manager and BLM Central Yukon field office manager. A harvestable surplus of bulls will be determined for a quota. Announcement for the March and April seasons and harvest quotas will be made after consultation with the ADF&G area biologist and the Chairs of the Western Interior Regional Advisory Council and Middle Yukon and Koyukuk River Fish and Game Advisory Committee.	Apr. 10–15 season to be announced.
Unit 21D, remainder—1 moose; however, antlerless moose may be taken only during Sep. 21–25 and the Mar. 1–5 season if authorized jointly by the Koyukuk/Nowitna National Wildlife Refuge Manager and the Central Yukon Field Office Manager, Bureau of Land Management. Harvest of cow moose accompanied by calves is prohibited. During the Aug. 22–31 and Sep. 5–25 seasons, a State registration permit is required. During the Mar. 1–5 season a Federal registration permit is required. Announcement for the antlerless moose seasons and cow quotas will be made after consultation with the ADF&G area biologist and the Chairs of the Western Interior Regional Advisory Council and the Middle Yukon Fish and Game Advisory Committee.	Aug. 22–31. Sep. 5–25. Mar. 1–5 season to be announced.
Unit 21E—1 moose; however, only bulls may be taken from Aug. 25–Sep. 30	Aug. 25–Sep. 30. Feb. 15–Mar. 15.
During the Feb. 15–Mar. 15 season, a Federal registration permit is required. The permit conditions and any needed closures for the winter season will be announced by the Innoko NWR manager after consultation with the ADF&G area biologist and the Chairs of the Western Interior Regional Advisory Council and the Middle Yukon Fish and Game Advisory Committee as stipulated in a letter of delegation. Moose may not be taken within one-half mile of the Innoko or Yukon River during the winter season.	
Beaver:	
Unit 21E—No limit	Nov. 1–June 10.
Unit 21, remainder	No open season.
Coyote:	
10 coyotes	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sep. 1–Mar. 15.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Nov. 1–Feb. 28.
Wolf:	
5 wolves	Aug. 10–Apr. 30.

Harvest limits	Open season
Wolverine:	
1 wolverine	Sep. 1–Mar. 31.
Grouse (Spruce, Ruffed, and Sharp-tailed):	
15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver:	
No Limit	Nov. 1–June 10.
Coyote:	
No limit	Nov. 1–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 1–Feb. 28.
Lynx:	
No limit	Nov. 1–Feb. 28.
Marten:	
No limit	Nov. 1–Feb. 28.
Mink and Weasel:	
No limit	Nov. 1–Feb. 28.
Muskrat:	
No limit	Nov. 1–June 10.
Otter:	
No limit	Nov. 1–Apr. 15.
Wolf:	
No limit	Nov. 1–Apr. 30.
Wolverine:	
No limit	Nov. 1–Mar. 31.

(22) *Unit 22.* (i) Unit 22 consists of Bering Sea, Norton Sound, Bering Strait, Chukchi Sea, and Kotzebue Sound drainages from, but excluding, the Pastolik River drainage in southern Norton Sound to, but not including, the Goodhope River drainage in Southern Kotzebue Sound, and all adjacent islands in the Bering Sea between the mouths of the Goodhope and Pastolik Rivers:

(A) Unit 22A consists of Norton Sound drainages from, but excluding, the Pastolik River drainage to, and including, the Ungalik River drainage, and Stuart and Besboro Islands.

(B) Unit 22B consists of Norton Sound drainages from, but excluding, the Ungalik River drainage to, and including, the Topkok Creek drainage.

(C) Unit 22C consists of Norton Sound and Bering Sea drainages from, but excluding, the Topkok Creek drainage to, and including, the Tisuk River drainage, and King and Sledge Islands.

(D) Unit 22D consists of that portion of Unit 22 draining into the Bering Sea north of, but not including, the Tisuk River to and including Cape York and St. Lawrence Island.

(E) Unit 22E consists of Bering Sea, Bering Strait, Chukchi Sea, and Kotzebue Sound drainages from Cape York to, but excluding, the Goodhope River drainage, and including Little Diomede Island and Fairway Rock.

(ii) You may hunt brown bear by State registration permit in lieu of a resident tag if you have obtained a State registration permit prior to hunting. Aircraft may not be used in any manner for brown bear hunting under the authority of a brown bear State registration permit, including transportation of hunters, bears, or parts of bears; however, this does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

(iii) Unit-specific regulations:

(A) If you have a trapping license, you may use a firearm to take beaver in Unit 22 during the established seasons.

(B) Coyote, incidentally taken with a trap or snare, may be used for subsistence purposes.

(C) A snowmachine may be used to position a hunter to select individual caribou for harvest provided that the animals are not shot from a moving snowmachine.

(D) The taking of one bull moose and up to three musk oxen by the community of Wales is allowed for the celebration of the Kingikmuit Dance Festival under the terms of a Federal registration permit. Permits will be issued to individuals only at the request of the Native Village of Wales. The harvest may occur only within regularly established seasons in Unit 22E. The harvest will count against any established quota for the area.

(E) A Federally qualified subsistence user (recipient) may designate another Federally qualified subsistence user to take musk oxen on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must get a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients in the course of a season, but have no more than two harvest limits in his/her possession at any one time, except in Unit 22E where a resident of Wales or Shishmaref acting as a designated hunter may hunt for any number of recipients, but have no more than four harvest limits in his/her possession at any one time.

Harvest limits	Open season
Hunting	
Black Bear:	

Harvest limits	Open season
Unit 22A and 22B—3 bears	July 1–June 30.
Unit 22, remainder	No open season.
Brown Bear:	
Units 22A, 22B, 22D remainder, and 22E—1 bear by State registration permit only	Aug. 1–May 31.
Unit 22C—1 bear by State registration permit only	Aug. 1–Oct. 31. May 10–25.
Unit 22D—that portion west of the Tisuk River drainage, west of the west bank of the unnamed creek originating at the unit boundary opposite the headwaters of McAdam's Creek and west of the west bank of Canyon Creek to its confluence with Tuksuk Channel—2 bears by Federal registration permit.	July 1–June 30.
Caribou:	
Unit 22B—that portion west of Golovnin Bay and west of a line along the west bank of the Fish and Niukluk Rivers to the mouth of the Libby River, and excluding all portions of the Niukluk River drainage upstream from and including the Libby River drainage—5 caribou per day. Calves may not be taken.	Oct. 1–Apr. 30. May 1–Sep. 30, a season may be announced.
Units 22A—that portion north of the Golsovia River drainage, 22B remainder, that portion of Unit 22D in the Kuzitrin River drainage (excluding the Pilgrim River drainage), and the Agiapuk River drainages, including the tributaries, and Unit 22E—that portion east of and including the Tin Creek drainage—5 caribou per day. Calves may not be taken.	July 1–June 30.
Unit 22A, remainder—5 caribou per day. Calves may not be taken	July 1–June 30, season may be announced.
Unit 22D, that portion in the Pilgrim River drainage—5 caribou per day. Calves may not be taken	Oct. 1–Apr. 30. May 1–Sep. 30, season may be announced.
Units 22C, 22D remainder, 22E remainder—5 caribou per day. Calves may not be taken	July 1–June 30, season may be announced.
Moose:	
Unit 22A—that portion north of and including the Tagoomenik and Shaktoolik River drainages—1 bull. Federal public lands are closed to hunting except by residents of Unit 22A hunting under these regulations.	Aug. 1–Sep. 30.
Unit 22A—that portion in the Unalakleet drainage and all drainages flowing into Norton Sound north of the Golsovia River drainage and south of the Tagoomenik and Shaktoolik River drainages—Federal public lands are closed to the taking of moose, except that residents of Unalakleet, hunting under these regulations, may take 1 bull by Federal registration permit, administered by the BLM Anchorage Field Office with the authority to close the season in consultation with ADF&G.	Aug. 15–Sep. 14.
Unit 22A, remainder—1 bull. However, during the period Jan.1–Feb. 15, only an antlered bull may be taken. Federal public lands are closed to the taking of moose except by residents of Unit 22A hunting under these regulations.	Aug. 1–Sep. 30. Jan. 1–Feb. 15.
Unit 22B—west of the Darby Mountains—1 bull by State registration permit. Quotas and any needed closures will be announced by the Anchorage Field Office Manager of the BLM, in consultation with NPS and ADF&G. Federal public lands are closed to the taking of moose except by Federally qualified subsistence users hunting under these regulations.	Sep. 1–14.
Unit 22B—west of the Darby Mountains—1 bull by either Federal or State registration permit. Quotas and any needed season closures will be announced by the Anchorage Field Office Manager of the BLM, in consultation with NPS, and ADF&G. Federal public lands are closed to the taking of moose except by residents of White Mountain and Golovin hunting under these regulations.	Jan. 1–31.
Unit 22B, remainder—1 bull	Aug. 1–Jan. 31.
Unit 22C—1 antlered bull	Sep. 1–14.
Unit 22D—that portion within the Kougarok, Kuzitrin, and Pilgrim River drainages—1 bull by State registration permit. Quotas and any needed closures will be announced by the Anchorage Field Office Manager of the BLM, in consultation with NPS and ADF&G. Federal public lands are closed to the taking of moose except by residents of Units 22D and 22C hunting under these regulations.	Sep. 1–14.
Unit 22D—that portion west of the Tisuk River drainage and Canyon Creek—1 bull by State registration permit. Quotas and any needed closures will be announced by the Anchorage Field Office Manager of the BLM, in consultation with NPS and ADF&G.	Sep. 1–14.
Unit 22D—that portion west of the Tisuk River drainage and Canyon Creek—1 bull by Federal registration permit. Quotas and any needed closures will be announced by the Anchorage Field Office Manager of the BLM, in consultation with NPS and ADF&G. Federal public lands are closed to the taking of moose except by residents of Units 22D and 22C hunting under these regulations.	Dec. 1–31.
Unit 22D, remainder—1 bull	Aug. 10–Sep. 14. Oct. 1–Nov. 30.
Unit 22D, remainder—1 moose; however, no person may take a calf or a cow accompanied by a calf	Dec. 1–31.
Unit 22D, remainder—1 antlered bull	Jan. 1–31.
Unit 22E—1 antlered bull. Federal public lands are closed to the taking of moose except by Federally qualified subsistence users hunting under these regulations.	Aug. 1–Mar. 15.
Musk ox:	
Unit 22B—1 bull by Federal permit or State permit. Federal public lands are closed to the taking of musk ox except by Federally qualified subsistence users hunting under these regulations.	Aug. 1–Mar. 15.
Unit 22D—that portion west of the Tisuk River drainage and Canyon Creek—1 bull by Federal permit or State permit. Federal public lands are closed to the harvest of musk ox except by residents of Nome and Teller hunting under these regulations.	Sep. 1–Mar. 15.

Harvest limits	Open season
Unit 22D, that portion within the Kuzitrin River drainages—1 bull by Federal permit or State permit. Federal public lands are closed to the taking of musk ox except for residents of Council, Golovin, White Mountain, Nome, Teller, and Brevig Mission hunting under these regulations.	Aug. 1–Mar. 15.
Unit 22D, remainder—1 bull by Federal permit or State permit. Federal public lands are closed to the taking of musk ox except by residents of Elim, White Mountain, Nome, Teller, and Brevig Mission hunting under these regulations.	Aug. 1–Mar. 15.
Unit 22E—1 bull by Federal permit or State permit. Federal public lands are closed to the harvest of musk ox except by Federally qualified subsistence users hunting under these regulations.	Aug. 1–Mar. 15.
Unit 22, remainder	No open season.
Beaver:	
Unit 22A, 22B, 22D, and 22E—50 beaver	Nov. 1–June 10.
Unit 22, remainder	No open season.
Coyote	No open season.
Fox, Arctic (Blue and White Phase):	
2 foxes	Sep. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
10 foxes	Nov. 1–Apr. 15.
Hare (Snowshoe and Tundra):	
No limit	Sep. 1–Apr. 15.
Lynx:	
2 lynx	Nov. 1–Apr. 15.
Marten:.	
Unit 22A and 22B—No limit	Nov. 1–Apr. 15.
Unit 22, remainder	No open season.
Mink and Weasel:	
No limit	Nov. 1–Jan. 31.
Otter:	
No limit	Nov. 1–Apr. 15.
Wolf:	
No limit	Nov. 1–Apr. 15.
Wolverine:	
3 wolverines	Sep. 1–Mar. 31.
Grouse (Spruce):	
15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock and Willow):	
Unit 22A and 22B east of and including the Niukluk River drainage—40 per day, 80 in possession	Aug. 10–Apr. 30.
Unit 22E—20 per day, 40 in possession	July 15–May 15.
Unit 22, remainder—20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver:	
Unit 22A, 22B, 22D, and 22E—50 beaver	Nov. 1–June 10.
Unit 22C	No open season.
Coyote	No open season.
Fox, Arctic (Blue and White Phase):	
No limit	Nov. 1–Apr. 15.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 1–Apr. 15.
Lynx:	
No limit	Nov. 1–Apr. 15.
Marten:	
No limit	Nov. 1–Apr. 15.
Mink and Weasel:	
No limit	Nov. 1–Jan. 31.
Muskrat:	
No limit	Nov. 1–June 10.
Otter:	
No limit	Nov. 1–Apr. 15.
Wolf:	
No limit	Nov. 1–Apr. 30.
Wolverine:	
No limit	Nov. 1–Apr. 15.

(23) *Unit 23.* (i) Unit 23 consists of Kotzebue Sound, Chukchi Sea, and Arctic Ocean drainages from and including the Goodhope River drainage to Cape Lisburne.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) You may not use aircraft in any manner either for hunting of ungulates, bear, wolves, or wolverine, or for transportation of hunters or harvested species in the Noatak Controlled Use Area for the period August 15–September 30. The Area consists of that portion of Unit 23 in a corridor extending 5 miles on either side of the Noatak River beginning at the mouth of the Noatak River, and extending

upstream to the mouth of Sapun Creek. This closure does not apply to the transportation of hunters or parts of ungulates, bear, wolves, or wolverine by regularly scheduled flights to communities by carriers that normally provide scheduled air service.

(B) [Reserved].

(iii) You may not use aircraft in any manner for brown bear hunting, including transportation of hunters, bears, or parts of bears; however, this does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

(iv) Unit-specific regulations:

(A) You may take caribou from a boat moving under power in Unit 23.

(B) In addition to other restrictions on method of take found in this section, you may also take swimming caribou with a firearm using rimfire cartridges.

(C) If you have a trapping license, you may take beaver with a firearm in all of Unit 23 from Nov. 1–June 10.

(D) For the Baird and DeLong Mountain sheep hunts—A Federally qualified subsistence user (recipient) may designate another Federally qualified subsistence user to take sheep on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for only one recipient in the course of a season and may have both his and the recipients' harvest limits in his/her possession at the same time.

(E) A snowmachine may be used to position a hunter to select individual caribou for harvest provided that the animals are not shot from a moving snowmachine. On BLM-managed lands only, a snowmachine may be used to position a caribou, wolf, or wolverine for harvest provided that the animals are not shot from a moving snowmachine.

(F) A Federally qualified subsistence user (recipient) may designate another Federally qualified subsistence user to take musk oxen on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must get a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients, but have no more than two harvest limits in his/her possession at any one time.

Harvest limits	Open season
Hunting	
Black Bear:	
3 bears	July 1–June 30.
Brown Bear:	
Unit 23—1 bear by State subsistence registration permit	Aug. 1–May 31.
Caribou:	
Unit 23—that portion which includes all drainages north and west of, and including, the Singoalik River drainage—5 caribou per day as follows:	
Calves may not be taken	
Bulls may be harvested	July 1–Oct. 14. Feb. 1–June 30.
Cows may be harvested. However, cows accompanied by calves may not be taken July 15–Oct. 14	July 15–Apr. 30.
Unit 23, remainder—5 caribou per day, as follows:	
Calves may not be taken	
Bulls may be harvested	July 1–Oct. 31. Feb. 1–June 30.
Cows may be harvested. However, cows accompanied by calves may not be taken July 31–Oct. 14	July 31–Mar. 31.
Sheep:	
Unit 23—south of Rabbit Creek, Kiyak Creek, and the Noatak River, and west of the Cutler and Redstone Rivers (Baird Mountains)—1 sheep by Federal registration permit. Federal public lands are closed to the taking of sheep except by Federally qualified subsistence users hunting under these regulations.	May be announced.
Unit 23—north of Rabbit Creek, Kiyak Creek, and the Noatak River, and west of the Aniuk River (DeLong Mountains)—1 sheep by Federal registration permit.	May be announced.
Unit 23, remainder (Schwatka Mountains) except for that portion within Gates of the Arctic National Park and Preserve—1 sheep by Federal registration permit.	May be announced.
Unit 23, remainder (Schwatka Mountains) that portion within Gates of the Arctic National Park and Preserve—1 ram with 7/8 curl or larger horn.	Aug. 10–Sep. 20.
Unit 23, remainder (Schwatka Mountains) that portion within Gates of the Arctic National Park and Preserve—1 sheep.	Oct. 1–Apr. 30.
Moose:	
Unit 23—that portion north and west of and including the Singoalik River drainage, and all lands draining into the Kukpuk and Ipewik Rivers—1 moose; no person may take a calf or a cow accompanied by a calf.	July 1–Mar. 31.
Unit 23—that portion lying within the Noatak River drainage—1 moose; however, antlerless moose may be taken only from Nov. 1–Mar. 31; no person may take a calf or a cow accompanied by a calf.	Aug. 1–Mar. 31.
Unit 23, remainder—1 moose; no person may take a calf or a cow accompanied by a calf	Aug. 1–Mar. 31.
Musk ox:	
Unit 23—south of Kotzebue Sound and west of and including the Buckland River drainage—1 bull by Federal permit or State permit.	Aug. 1–Mar. 15.
Federal public lands are closed to the taking of musk oxen except by Federally qualified subsistence users hunting under these regulations.	
Unit 23—Cape Krusenstern National Monument—1 bull by Federal permit. Cape Krusenstern National Monument is closed to the taking of musk oxen except by Federally qualified subsistence users but not residents of Point Hope.	Aug. 1–Mar. 15.
Unit 23—that portion north and west of the Kobuk River drainage—1 bull by State or Federal registration permit	Aug. 1–Mar. 15.
Unit 23, remainder	No open season.
Beaver:	
No limit	July 1–June 30.

Harvest limits	Open season
Coyote:	
2 coyotes	Sep. 1–Apr. 30.
Fox, Arctic (Blue and White Phase):	
No limit	Sep. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Sep. 1–Mar. 15.
Hare: (Snowshoe and Tundra)	
No limit	July 1–June 30.
Lynx:	
2 lynx	Nov. 1–Apr. 15.
Wolf:	
15 wolves	Oct. 1–Apr. 30.
Wolverine:	
1 wolverine	Sep. 1–Mar. 31.
Muskrat:	
No limit	July 1–June 30.
Grouse (Spruce and Ruffed):	
15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver:	
Unit 23—the Kobuk and Selawik River drainages—50 beaver	July 1–June 30.
Unit 23, remainder—30 beaver	July 1–June 30.
Coyote:	
No limit	Nov. 1–Apr. 15.
Fox, Arctic (Blue and White Phase):	
No limit	Nov. 1–Apr. 15.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 1–Apr. 15.
Lynx:	
No limit	Nov. 1–Apr. 15.
Marten:	
No limit	Nov. 1–Apr. 15.
Mink and Weasel:	
No limit	Nov. 1–Jan. 31.
Muskrat:	
No limit	Nov. 1–June 10.
Otter:	
No limit	Nov. 1–Apr. 15.
Wolf:	
No limit	Nov. 1–Apr. 30.
Wolverine:	
No limit	Nov. 1–Apr. 15.

(24) *Unit 24.* (i) Unit 24 consists of the Koyukuk River drainage upstream from but not including the Dulbi River drainage:

(A) Unit 24A consists of the Middle Fork of the Koyukuk River drainage upstream from but not including the Harriet Creek and North Fork Koyukuk River drainages, to the South Fork of the Koyukuk River drainage upstream from Squaw Creek, the Jim River Drainage, the Fish Creek drainage upstream from and including the Bonanza Creek drainage, to the 1,410 ft. peak of the hydrologic divide with the northern fork of the Kanuti Chalatna River at N. Lat. 66°33.303′ W. Long. 151°03.637′ and following the unnamed northern fork of the Kanuti Chalatna Creek to the confluence of the southern fork of the Kanuti Chalatna River at N. Lat 66°27.090′ W. Long. 151°23.841′, 4.2 miles SSW (194 degrees true) of Clawanmenka Lake and following the unnamed southern fork of the Kanuti Chalatna Creek to the hydrologic divide with the Kanuti River drainage at N. Lat. 66°19.789′ W. Long. 151°10.102′, 3.0 miles ENE (79 degrees true) from the 2,055 ft. peak on that divide, and the Kanuti River drainage upstream from the confluence of an unnamed creek at N. Lat. 66°13.050′ W. Long. 151°05.864′, 0.9 miles SSE (155 degrees true) of a 1,980 ft. peak on that divide, and following that unnamed creek to the Unit 24 boundary on the hydrologic divide to the Ray River drainage at N. Lat. 66°03.827′ W. Long. 150°49.988′ at the 2,920 ft. peak of that divide.

(B) Unit 24B consists of the Koyukuk River Drainage upstream from Dog Island to the Subunit 24A boundary.

(C) Unit 24C consists of the Hogatza River Drainage, the Koyukuk River Drainage upstream from Batza River on the north side of the Koyukuk River and upstream from and including the Indian River Drainage on the south side of the Koyukuk River to the Subunit 24B boundary.

(D) Unit 24D consists of the remainder of Unit 24.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) You may not use firearms, snowmobiles, licensed highway vehicles, or motorized vehicles, except aircraft and boats, in the Dalton Highway Corridor Management Area, which consists of those portions of Units 20, 24, 25, and 26 extending 5 miles from each side of the Dalton Highway from the Yukon River to milepost 300 of the Dalton Highway,

except as follows: Residents living within the Dalton Highway Corridor Management Area may use snowmobiles only for the subsistence taking of wildlife. You may use licensed highway vehicles only on designated roads within the Dalton Highway Corridor Management Area. The residents of Alatna, Allakaket, Anaktuvuk Pass, Bettles, Evansville, and Stevens Village, and residents living within the Corridor may use firearms within the Corridor only for subsistence taking of wildlife.

(B) You may not use aircraft for hunting moose, including transportation of any moose hunter or moose part in the Kanuti Controlled Use Area, which consists of that portion of Unit 24 bounded by a line from the Bettles Field VOR to the east side of Fish Creek Lake, to Old Dummy Lake, to the south end of Lake Todatonten (including all waters of these lakes), to the northernmost headwaters of Siruk Creek, to the highest peak of Double Point Mountain, then back to the Bettles Field VOR; however, this does not apply to transportation of a moose hunter or moose part by aircraft between publicly owned airports in the controlled use area or between a publicly owned airport within the area and points outside the area.

(C) You may not use aircraft for hunting moose, including transportation of any moose hunter or moose part in the Koyukuk Controlled Use Area, which consists of those portions of Unit 21s and 24 bounded by a line from the north bank of the Yukon River at Koyukuk at 64°52.58′ N. lat., 157°43.10′ W. long., then northerly to the confluences of the Honhosa and Kateel Rivers at 65°28.42′ N. lat., 157°44.89′ W. long., then northeasterly to the confluences of Billy Hawk Creek and the Huslia River (65°57 N. lat., 156°41 W. long.) at 65°56.66′ N. lat., 156°40.81′ W. long., then easterly to the confluence of the forks of the Dakli River at 66°02.56′ N. lat., 156°12.71′ W. long., then easterly to the confluence of McLanes Creek and the Hogatza River at 66°00.31′ N. lat., 155°18.57′ W. long., then southwesterly to the crest of Hochandochtla Mountain at 65°31.87′ N. lat., 154°52.18′ W. long., then southwest to the mouth of Cottonwood Creek at 65°13.00′ N. lat., 156°06.43′ W. long., then southwest to Bishop Rock (Yistletaw) at 64°49.35′ N. lat., 157°21.73′ W. long., then westerly along the north bank of the Yukon River (including Koyukuk Island) to the point of beginning. However, this does not apply to transportation of a moose hunter or moose part by aircraft between publicly owned airports in the controlled use area or between a publicly owned airport within the area and points outside the area. All hunters on the Koyukuk River passing the ADF&G-operated check station at Ella's Cabin (15 miles upstream from the Yukon on the Koyukuk River) are required to stop and report to ADF&G personnel at the check station.

(iii) You may hunt brown bear by State registration permit in lieu of a resident tag if you have obtained a State registration permit prior to hunting. You may not use aircraft in any manner for brown bear hunting under the authority of a brown bear State registration permit, including transportation of hunters, bears, or parts of bears. However, this prohibition does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

(iv) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 30; and in the Koyukuk Controlled Use Area, you may also use bait to hunt black bear between September 1 and September 25.

(B) Arctic fox, incidentally taken with a trap or snare intended for red fox, may be used for subsistence purposes.

(C) If you are a resident of Units 24A, 24B, or 24C, during the dates of Oct. 15–Apr. 30, you may use an artificial light when taking a black bear, including a sow accompanied by cub(s), at a den site within the portions of Gates of the Arctic National Park and Preserve that are within Units 24A, 24B, or 24C.

Harvest limits	Open season
Hunting	
Black Bear:	
3 bears	July 1–June 30.
Brown Bear:	
Unit 24—1 bear by State registration permit	Aug. 10–June 30.
Caribou:	
Unit 24A—that portion south of the south bank of the Kanuti River—1 caribou	Aug. 10–Mar. 31.
Unit 24B—that portion south of the south bank of the Kanuti River, upstream from and including that portion of the Kanuti-Kilolitna River drainage, bounded by the southeast bank of the Kodosin-Nolitna Creek, then downstream along the east bank of the Kanuti-Kilolitna River to its confluence with the Kanuti River—1 caribou.	Aug. 10–Mar. 31.
Units 24A remainder, 24B remainder—5 caribou per day as follows:	
Calves may not be taken	
Bulls may be harvested	July 1–Oct. 14. Feb. 1–June 30.
Cows may be harvested	July 15–Apr. 30.
Units 24C, 24D—5 caribou per day as follows:	
Calves may not be taken	
Bulls may be harvested	July 1–Oct. 14. Feb. 1–June 30.
Cows may be harvested	Sep. 1–Mar. 31.
Sheep:	
Units 24A and 24B—(Anaktuvuk Pass residents only)—that portion within the Gates of the Arctic National Park—community harvest quota of 60 sheep, no more than 10 of which may be ewes, and a daily possession limit of 3 sheep per person, no more than 1 of which may be a ewe.	July 15–Dec. 31.
Units 24A and 24B—(excluding Anaktuvuk Pass residents)—that portion within the Gates of the Arctic National Park—3 sheep, no more than one of which may be a ewe, by Federal registration permit only, with exception for residents of Alatna and Allakaket who will report by a National Park Service community harvest system.	Aug. 1–Apr. 30.
Unit 24A—except that portion within the Gates of the Arctic National Park—1 ram by Federal registration permit only.	Aug. 20–Sep. 30.
Unit 24, remainder—1 ram with 7/8 curl or larger horn	Aug. 10–Sep. 20.

Harvest limits	Open season
Moose:	
Unit 24A—1 antlered bull by Federal registration permit	Aug. 25–Oct. 1.
Unit 24B—that portion within the John River Drainage—1 moose	Aug. 1–Dec. 31.
Unit 24B, remainder—1 antlered bull by Federal registration permit	Aug. 25–Oct. 1. Dec. 15–Apr. 15.
Federal public lands in the Kanuti Controlled Use Area, as described in Federal regulations, are closed to taking of moose, except by Federally qualified subsistence users of Unit 24, Koyukuk, and Galena hunting under these regulations.	
Units 24C and 24D—that portion within the Koyukuk Controlled Use Area and Koyukuk National Wildlife Refuge—1 bull.	Sep. 1–25.
1 antlerless moose by Federal permit if authorized by announcement by the Koyukuk/Nowitna National Wildlife Refuge Manager and BLM Field Office Manager Central Yukon Field Office. Harvest of cow moose accompanied by calves is prohibited. A harvestable surplus of cows will be determined for a quota.	Mar. 1–5 to be announced.
or	or
1 antlered bull by Federal permit, if there is no Mar. 1–5 season and if authorized by announcement by the Koyukuk/Nowitna National Wildlife Refuge Manager and BLM Field Office Manager Central Yukon Field Office. Harvest of cow moose accompanied by calves is prohibited. Announcement for the March and April seasons and harvest quotas will be made after consultation with the ADF&G Area Biologist and the Chairs of the Western Interior Alaska Subsistence Regional Advisory Council, and the Middle Yukon and Koyukuk River Fish and Game Advisory Committees.	Apr. 10–15 to be announced.
Unit 24C, remainder and Unit 24D, remainder—1 antlered bull. During the Sep. 5–25 season, a State registration permit is required.	Aug. 25–Oct. 1.
Coyote:	
10 coyotes	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sep. 1–Mar. 15.
Hare (Snowshoe):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Nov. 1–Feb. 28.
Wolf:	
15 wolves; however, no more than 5 wolves may be taken prior to Nov. 1	Aug. 10–Apr. 30.
Wolverine:	
5 wolverine; however, no more than 1 wolverine may be taken prior to Nov. 1	Sep. 1–Mar. 31.
Grouse (Spruce, Ruffed, and Sharp-tailed):	
15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock and Willow):	
20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver:	
No limit	Nov. 1–June 10.
Coyote:	
No limit	Nov. 1–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 1–Feb. 28.
Lynx:	
No limit	Nov. 1–Feb. 28.
Marten:	
No limit	Nov. 1–Feb. 28.
Mink and Weasel:	
No limit	Nov. 1–Feb. 28.
Muskrat:	
No limit	Nov. 1–June 10.
Otter:	
No limit	Nov. 1–Apr. 15.
Wolf:	
No limit	Nov. 1–Apr. 30.
Wolverine:	
No limit	Nov. 1–Mar. 31.

(25) *Unit 25.* (i) Unit 25 consists of the Yukon River drainage upstream from but not including the Hamlin Creek drainage, and excluding drainages into the south bank of the Yukon River upstream from the Charley River:

(A) Unit 25A consists of the Hodzana River drainage upstream from the Narrows, the Chandalar River drainage upstream from and including the East Fork drainage, the Christian River drainage upstream from Christian, the Sheenjek River drainage upstream from and including the Thluichohnjik Creek, the Coleen River drainage, and the Old Crow River drainage.

(B) Unit 25B consists of the Little Black River drainage upstream from but not including the Big Creek drainage, the Black River drainage upstream from and including the Salmon Fork drainage, the Porcupine River drainage upstream from the confluence of the Coleen and Porcupine Rivers, and drainages into the north bank of the Yukon River upstream from Circle,

including the islands in the Yukon River.

(C) Unit 25C consists of drainages into the south bank of the Yukon River upstream from Circle to the Subunit 20E boundary, the Birch Creek drainage upstream from the Steese Highway bridge (milepost 147), the Preacher Creek drainage upstream from and including the Rock Creek drainage, and the Beaver Creek drainage upstream from and including the Moose Creek drainage.

(D) Unit 25D consists of the remainder of Unit 25.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) You may not use firearms, snowmobiles, licensed highway vehicles or motorized vehicles, except aircraft and boats in the Dalton Highway Corridor Management Area, which consists of those portions of Units 20, 24, 25, and 26 extending 5 miles from each side of the Dalton Highway from the Yukon River to milepost 300 of the Dalton Highway, except as follows: Residents living within the Dalton Highway Corridor Management Area may use snowmobiles only for the subsistence taking of wildlife. You may use licensed highway vehicles only on designated roads within the Dalton Highway Corridor Management Area. The residents of Alatna, Allakaket, Anaktuvuk Pass, Bettles, Evansville, Stevens Village, and residents living within the Corridor may use firearms within the Corridor only for subsistence taking of wildlife.

(B) The Arctic Village Sheep Management Area consists of that portion of Unit 25A north and west of Arctic Village, which is bounded on the east by the East Fork Chandalar River beginning at the confluence of Red Sheep Creek and proceeding southwesterly downstream past Arctic Village to the confluence with Crow Nest Creek, continuing up Crow Nest Creek, through Portage Lake, to its confluence with the Junjik River; then down the Junjik River past Timber Lake and a larger tributary, to a major, unnamed tributary, northwesterly, for approximately 6 miles where the stream forks into two roughly equal drainages; the boundary follows the easternmost fork, proceeding almost due north to the headwaters and intersects the Continental Divide; the boundary then follows the Continental Divide easterly, through Carter Pass, then easterly and northeasterly approximately 62 miles along the divide to the headwaters of the most northerly tributary of Red Sheep Creek then follows southerly along the divide designating the eastern extreme of the Red Sheep Creek drainage then to the confluence of Red Sheep Creek and the East Fork Chandalar River.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 30 and between August 1 and September 25; in Unit 25D you may use bait to hunt brown bear between April 15 and June 30 and between August 1 and September 25; you may use bait to hunt wolves on FWS and BLM lands.

(B) You may take caribou and moose from a boat moving under power in Unit 25.

(C) The taking of bull moose outside the seasons provided in this part for food in memorial potlatches and traditional cultural events is authorized in Unit 25D west provided that:

(*1*) The person organizing the religious ceremony or cultural event contacts the Refuge Manager, Yukon Flats National Wildlife Refuge prior to taking or attempting to take bull moose and provides to the Refuge Manager the name of the decedent, the nature of the ceremony or cultural event, number to be taken, and the general area in which the taking will occur;

(*2*) Each person who takes a bull moose under this section must submit a written report to the Refuge Manager, Yukon Flats National Wildlife Refuge not more than 15 days after the harvest specifying the harvester's name and address, and the date(s) and location(s) of the taking(s);

(*3*) No permit or harvest ticket is required for taking under this section; however, the harvester must be an Alaska rural resident with customary and traditional use in Unit 25D west;

(*4*) Any moose taken under this provision counts against the annual quota of 60 bulls.

Harvest limits	Open season
Hunting	
Black Bear:	
Units 25A, 25B, and 25C—3 bears	July 1–June 30.
or 3 bears by State community harvest permit	July 1–June 30.
Unit 25D—5 bears	July 1–June 30.
Brown Bear:	
Units 25A and 25B—1 bear	Aug. 10–June 30.
Unit 25C—1 bear	Sep. 1–May 31.
Unit 25D—2 bears every regulatory year	July 1–June 30.
Caribou:	
Unit 25A—in those portions west of the east bank of the East Fork of the Chandalar River extending from its confluence with the Chandalar River upstream to Guilbeau Pass and north of the south bank of the mainstem of the Chandalar River at its confluence with the East Fork Chandalar River west (and north of the south bank) along the West Fork Chandalar River—10 caribou. However, only bulls may be taken May 16–June 30.	July 1–June 30.
Unit 25C—1 caribou; a joint Federal/State registration permit is required. During the Aug. 10–Sep. 30 season, the harvest is restricted to 1 bull. The harvest quota between Aug. 10–29 in Units 20E, 20F, and 25C is 100 caribou.	Aug. 10–Sep. 30. Nov. 1–Mar. 31.
Unit 25D—that portion of Unit 25D drained by the west fork of the Dall River west of 150°W. long.—1 bull	Aug. 10–Sep. 30. Dec. 1–31.
Unit 25A remainder, 25B, and Unit 25D, remainder—10 caribou	July 1–Apr. 30.
Sheep:	
Unit 25A—that portion within the Dalton Highway Corridor Management Area	No open season.
Units 25A—Arctic Village Sheep Management Area—2 rams by Federal registration permit only	Aug. 10–Apr. 30.
Federal public lands are closed to the taking of sheep except by rural Alaska residents of Arctic Village, Venetie, Fort Yukon, Kaktovik, and Chalkyitsik hunting under these regulations.	
Unit 25A, remainder—3 sheep by Federal registration permit only	Aug. 10–Apr. 30.
Units 25B, 25C, and 25D—1 ram with full-curl horn or larger	Aug. 10–Sep. 20.
Moose:	
Unit 25A—1 antlered bull	Aug. 25–Sep. 25. Dec. 1–10.

Harvest limits	Open season
Unit 25B—that portion within Yukon–Charley National Preserve—1 bull	Aug. 20–Sep. 30.
Unit 25B—that portion within the Porcupine River drainage upstream from, but excluding the Coleen River drainage—1 antlered bull.	Aug. 25–Sep. 30. Dec. 1–10.
Unit 25B—that portion, other than Yukon–Charley Rivers National Preserve, draining into the north bank of the Yukon River upstream from and including the Kandik River drainage, including the islands in the Yukon River—1 antlered bull.	Sep. 5–30. Dec. 1–15.
Unit 25B, remainder—1 antlered bull	Aug. 25–Sep. 25. Dec. 1–15.
Unit 25C—1 antlered bull	Aug. 20–Sep. 30.
Unit 25D (west)—that portion lying west of a line extending from the Unit 25D boundary on Preacher Creek, then downstream along Preacher Creek, Birch Creek, and Lower Mouth of Birch Creek to the Yukon River, then downstream along the north bank of the Yukon River (including islands) to the confluence of the Hadweenzic River, then upstream along the west bank of the Hadweenzic River to the confluence of Forty and One-Half Mile Creek, then upstream along Forty and One-Half Mile Creek to Nelson Mountain on the Unit 25D boundary—1 bull by a Federal registration permit. Permits will be available in the following villages: Beaver (25 permits), Birch Creek (10 permits), and Stevens Village (25 permits). Permits for residents of 25D (west) who do not live in one of the three villages will be available by contacting the Yukon Flats National Wildlife Refuge Office in Fairbanks or a local Refuge Information Technician. Moose hunting on public land in Unit 25D (west) is closed at all times except for residents of Unit 25D (west) hunting under these regulations. The moose season will be closed by announcement of the Refuge Manager Yukon Flats NWR when 60 moose have been harvested in the entirety (from Federal and non-Federal lands) of Unit 25D (west).	Aug. 25–Feb. 28.
Unit 25D, remainder—1 antlered moose	Aug. 25–Oct. 1. Dec. 1–20.
Beaver:	
Unit 25A, 25B, and 25D—1 beaver per day; 1 in possession	June 11–Aug. 31.
Unit 25A, 25B, and 25D—no limit	Sep. 1–June 10.
Unit 25C	No open season.
Coyote:	
10 coyotes	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sep. 1–Mar. 15.
Hare (Snowshoe):	
No limit	July 1–June 30.
Lynx:	
Unit 25C—2 lynx	Dec. 1–Jan. 31.
Unit 25, remainder—2 lynx	Nov. 1–Feb. 28.
Muskrat:	
Units 25B and 25C, that portion within Yukon–Charley Rivers National Preserve—No limit	Nov. 1–June 10.
Unit 25, remainder	No open season.
Wolf:	
Unit 25A—No limit	Aug. 10–Apr. 30.
Unit 25, remainder—10 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sep. 1–Mar. 31.
Grouse (Spruce, Ruffed, and Sharp-tailed):	
Unit 25C—15 per day, 30 in possession.	Aug. 10–Mar. 31.
Unit 25, remainder—15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock and Willow):	
Unit 25C—those portions within 5 miles of Route 6 (Steese Highway)—20 per day, 40 in possession	Aug. 10–Mar. 31.
Unit 25, remainder—20 per day, 40 in possession	Aug. 10–Apr. 30.

Trapping

Beaver:	
Unit 25C—No limit	Nov. 1–Apr. 15.
Unit 25, remainder—50 beaver	Nov. 1–Apr. 15.
Coyote:	
No limit	Oct. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 1–Feb. 28.
Lynx:	
No limit	Nov. 1–Mar. 31.
Marten:	
No limit	Nov. 1–Feb. 28.
Mink and Weasel:	
No limit	Nov. 1–Feb. 28.
Muskrat:	
No limit	Nov. 1–June 10.
Otter:	
No limit	Nov. 1–Apr. 15.
Wolf:	
No limit	Oct. 1–Apr. 30.
Wolverine:	

Harvest limits	Open season
Unit 25C—No limit	Nov. 1–Mar. 31.
Unit 25, remainder—No limit	Nov. 1–Mar. 31.

(26) *Unit 26.* (i) Unit 26 consists of Arctic Ocean drainages between Cape Lisburne and the Alaska-Canada border, including the Firth River drainage within Alaska:

(A) Unit 26A consists of that portion of Unit 26 lying west of the Itkillik River drainage and west of the east bank of the Colville River between the mouth of the Itkillik River and the Arctic Ocean;

(B) Unit 26B consists of that portion of Unit 26 east of Unit 26A, west of the west bank of the Canning River and west of the west bank of the Marsh Fork of the Canning River;

(C) Unit 26C consists of the remainder of Unit 26.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) You may not use aircraft in any manner for moose hunting, including transportation of moose hunters or parts of moose during the periods July. 1–Sep. 14 and Jan. 1–Mar. 31 in Unit 26A; however, this does not apply to transportation of moose hunters, their gear, or moose parts by aircraft between publicly owned airports.

(B) You may not use firearms, snowmobiles, licensed highway vehicles or motorized vehicles, except aircraft and boats, in the Dalton Highway Corridor Management Area, which consists of those portions of Units 20, 24, 25, and 26 extending 5 miles from each side of the Dalton Highway from the Yukon River to milepost 300 of the Dalton Highway, except as follows: Residents living within the Dalton Highway Corridor Management Area may use snowmobiles only for the subsistence taking of wildlife. You may use licensed highway vehicles only on designated roads within the Dalton Highway Corridor Management Area. The residents of Alatna, Allakaket, Anaktuvuk Pass, Bettles, Evansville, Stevens Village, and residents living within the Corridor may use firearms within the Corridor only for subsistence taking of wildlife.

(iii) You may not use aircraft in any manner for brown bear hunting, including transportation of hunters, bears or parts of bears. However, this does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

(iv) Unit-specific regulations:

(A) You may take caribou from a boat moving under power in Unit 26.

(B) In addition to other restrictions on method of take found in this section, you may also take swimming caribou with a firearm using rimfire cartridges.

(C) In Kaktovik, a Federally qualified subsistence user (recipient) may designate another Federally qualified subsistence user to take sheep or musk ox on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than two harvest limits in his/her possession at any one time.

(D) For the DeLong Mountain sheep hunts—A Federally qualified subsistence user (recipient) may designate another Federally qualified subsistence user to take sheep on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for only one recipient in the course of a season and may have both his and the recipient's harvest limits in his/her possession at the same time.

Harvest limits	Open season
Hunting	
Black Bear:	
3 bears	July 1–June 30.
Brown Bear:	
Unit 26A—1 bear by State subsistence registration permit	July 1–June 30.
Unit 26B—1 bear	Jan. 1–Dec. 31.
Unit 26C—1 bear	Aug. 10–June 30.
Caribou:	
Unit 26A—that portion of the Colville River drainage upstream from the Anaktuvuk River, and drainages of the Chukchi Sea south and west of, and including the Utukok River drainage—5 caribou per day as follows:	
Calves may not be taken.	
Bulls may be harvested	July 1–Oct. 14.
	Dec. 6–June 30.
Cows may be harvested; however, cows accompanied by calves may not be taken July 16–Oct. 15	July 16–Mar. 15.
Unit 26A remainder—5 caribou per day as follows:	
Calves may not be taken.	
Bulls may be harvested	July 1–Oct. 15.
	Dec. 6–June 30.
Up to 3 cows per day may be harvested; however, cows accompanied by calves may not be taken July 16–Oct. 15	July 16–Mar. 15.
Unit 26B, that portion south of 69°30′ N. lat. and west of the Dalton Highway—5 caribou per day as follows:	
Bulls may be harvested	July 1–Oct. 14.
	Dec. 10–June 30.
Cows may be harvested	July 1–Apr. 30.
Unit 26B remainder—5 caribou per day as follows:	
Bulls may be harvested	July 1–June 30.
Cows may be harvested	July 1–May 15.
You may not transport more than 5 caribou per regulatory year from Unit 26 except to the community of Anaktuvuk Pass	
Sheep:	
Unit 26A and 26B—(Anaktuvuk Pass residents only)—that portion within the Gates of the Arctic National Park—community harvest quota of 60 sheep, no more than 10 of which may be ewes and a daily possession limit of 3 sheep per person, no more than 1 of which may be a ewe.	July 15–Dec. 31.

Harvest limits	Open season
Unit 26A—(excluding Anaktuvuk Pass residents)—those portions within the Gates of the Arctic National Park—3 sheep	Aug. 1–Apr. 30.
Unit 26A—that portion west of Howard Pass and the Etivluk River (DeLong Mountains)—1 sheep by Federal registration permit	Season may be announced.
Unit 26B—that portion within the Dalton Highway Corridor Management Area—1 ram with 7/8 curl or larger horn by Federal registration permit only.	Aug. 10–Sep. 20.
Unit 26A, remainder and 26B, remainder—including the Gates of the Arctic National Preserve—1 ram with 7/8 curl or larger horn	Aug. 10–Sep. 20.
Unit 26C—3 sheep per regulatory year; the Aug. 10–Sep. 20 season is restricted to 1 ram with 7/8 curl or larger horn. A Federal registration permit is required for the Oct. 1–Apr. 30 season.	Aug. 10–Sep. 20. Oct. 1–Apr. 30.
Moose:	
Unit 26A—that portion of the Colville River drainage upstream from and including the Anaktuvuk River drainage—1 bull	Aug. 1–Sep. 14.
Unit 26A—that portion of the Colville River drainage upstream from and including the Anaktuvuk River drainage—1 moose; however, you may not take a calf or a cow accompanied by a calf.	Feb. 15–Apr. 15.
Unit 26A—that portion west of 156°00′ W. longitude excluding the Colville River drainage—1 moose, however, you may not take a calf or a cow accompanied by a calf.	July 1–Sep. 14.
Unit 26A, remainder—1 bull	Aug. 1–Sep. 14.
Unit 26B—excluding the Canning River drainage—1 bull	Sep. 1–14.
Units 26B, remainder and 26C—1 moose by Federal registration permit by residents of Kaktovik only. Federal public lands are closed to the taking of moose except by a Kaktovik resident holding a Federal registration permit and hunting under these regulations.	May be announced.
Musk ox:	
Unit 26C—1 bull by Federal registration permit only. The number of permits that may be issued only to the residents of the village of Kaktovik will not exceed three percent (3%) of the number of musk oxen counted in Unit 26C during a pre-calving census. Public lands are closed to the taking of musk ox, except by rural Alaska residents of the village of Kaktovik hunting under these regulations.	July 15–Mar. 31.
Coyote:	
2 coyotes	Sep. 1–Apr. 30.
Fox, Arctic (Blue and White Phase):	
2 foxes	Sep. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
Units 26A and 26B—10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sep. 1–Mar. 15.
Unit 26C—10 foxes	Nov. 1–Apr. 15.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Nov. 1–Apr. 15.
Wolf:	
15 wolves	Aug. 10–Apr. 30.
Wolverine:	
5 wolverine	Sep. 1–Mar. 31.
Ptarmigan (Rock and Willow):	
20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Coyote:	
No limit	Nov. 1–Apr. 15.
Fox, Arctic (Blue and White Phase):	
No limit	Nov. 1–Apr. 15.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 1–Apr. 15.
Lynx:	
No limit	Nov. 1–Apr. 15.
Marten:	
No limit	Nov. 1–Apr. 15.
Mink and Weasel:	
No limit	Nov. 1–Jan. 31.
Muskrat:	
No limit	Nov. 1–June 10.
Otter:	
No limit	Nov. 1–Apr. 15.
Wolf:	
No limit	Nov. 1–Apr. 30.
Wolverine:	
No limit	Nov. 1–Apr. 15.

Dated: June 22, 2016.

Thomas Whitford,

Subsistence Program Leader, USDA–Forest Service.

Dated: June 22, 2016.

Stewart Cogswell,

Deputy Assistant Regional Director, U.S. Fish and Wildlife Service, Acting Chair, Federal Subsistence Board.

[FR Doc. 2016–17832 Filed 8–3–16; 4:15 pm]

BILLING CODE 3410–11–4333–15–P

FEDERAL REGISTER

Vol. 81 Monday,
No. 152 August 8, 2016

Part III

Office of Management and Budget

North American Industry Classification System—Revision for 2017; Notice

OFFICE OF MANAGEMENT AND BUDGET

North American Industry Classification System—Revision for 2017

AGENCY: Executive Office of the President, Office of Management and Budget.

ACTION: Notice of NAICS 2017 final decisions.

SUMMARY: The North American Industry Classification System (NAICS) is a system for classifying establishments (individual business locations) by type of economic activity. Mexico's Instituto Nacional de Estadística y Geografía (INEGI), Statistics Canada, and the United States Office of Management and Budget (OMB), through its Economic Classification Policy Committee (ECPC), collaborate on NAICS to make the industry statistics produced by the three countries comparable. Under 31 U.S.C. 1104(d) and 44 U.S.C. 3504(e), the Office of Management and Budget (OMB) is announcing its final decisions for adoption of NAICS revisions for 2017 as recommended by the ECPC in Part IV of OMB's notice for solicitation of comments published in the August 4, 2015, **Federal Register** (80 FR 46480–46484). More details on these decisions are presented in the **SUPPLEMENTARY INFORMATION** section below.

DATES: *Effective Date:* Federal statistical establishment data published for reference years beginning on or after January 1, 2017, should be published using the 2017 NAICS United States codes. Publication of a 2017 *NAICS United States Manual* or supplement is planned for January 2017.

ADDRESSES: You should send correspondence about the adoption and implementation of the 2017 NAICS as shown in the August 4, 2015, **Federal Register** notice to: Katherine K. Wallman, Chief Statistician, Office of Management and Budget, 10201 New Executive Office Building, Washington, DC 20503, *telephone number:* (202) 395–3093, *FAX number:* (202) 395–7245. Comments submitted in response to this notice will be made available to the public through relevant Web sites. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice. You may send comments via email to *naics@omb.eop.gov* with the subject ''NAICS17.'' Because of delays in the receipt of regular mail related to security screening, respondents are encouraged to use electronic communications.

You should address inquiries about the content of industries or requests for electronic copies of the 2017 NAICS tables to: John B. Murphy, Assistant Division Chief for Classification Activities, Economic Statistical Methods Division, Bureau of the Census, Room 5H063, Washington, DC 20233, *telephone number:* (301) 763–5172, *FAX number:* (301) 735–8744, or by *email: John.Burns.Murphy@census.gov.*

Electronic Availability and Comments: This document and the August 4, 2015, **Federal Register** notice are available on the Census Bureau's Web site at *http://www.census.gov/naics.* The revision for 2017 will result in a number of code and title changes for NAICS. For that reason, a full list of NAICS 2017 industry codes and titles will be posted on the Web site prior to publication of the *NAICS United States, 2017 Manual* for reference and implementation planning. The NAICS Web site referenced above also contains previous NAICS **Federal Register** notices and related documents.

FOR FURTHER INFORMATION CONTACT: Paul Bugg, 10201 New Executive Office Building, Washington, DC 20503, *email address: pbugg@omb.eop.gov* with subject ''NAICS17,'' *telephone number:* (202) 395–3095, *FAX number:* (202) 395–7245. Because of delays in the receipt of regular mail related to security screening, respondents are encouraged to use electronic communications.

SUPPLEMENTARY INFORMATION: The North American Industry Classification System (NAICS) is a system for classifying establishments (individual business locations) by type of economic activity. NAICS was jointly developed by Canada, Mexico, and the United States in 1997. NAICS helps ensure that establishment data produced across the Federal statistical system are comparable and can be used together in analysis.

It is important to note that NAICS is designed and maintained solely for statistical purposes. Consequently, although the classification may also be used for various nonstatistical purposes (*e.g.,* for administrative, regulatory, or taxation functions), the requirements of government agencies or private users that choose to use NAICS for nonstatistical purposes play no role in its development or revision.

For the 2017 revision, Canada, Mexico, and the United States focused on new and emerging industries as well as updating the structure of the oil and gas industries in Subsector 211, Oil and Gas Extraction. The August 4, 2015, **Federal Register** notice: (1) Summarized the background for the proposed revisions to NAICS 2012 in Part I; (2) contained a summary of public comments to the first **Federal Register** notice (79 FR 29626–29629, May 22, 2014) for the 2017 NAICS revision process in Part II; (3) included a list of recommended title changes for NAICS industries that clarify, but do not change, the existing content of the industries in Part III; and (4) provided a comprehensive listing of recommended changes for national industries and their NAICS 2012 industries analogue(s) in Part IV.

In response to the ECPC recommendations in the August 4, 2015, **Federal Register**, comments that were received supported proposed changes, or suggested changes that would be incompatible with proposals that were accepted.

Final Decisions

After taking into consideration comments submitted in direct response to the May 22, 2014, **Federal Register** notice, as well as benefits and costs, and after consultation with the Economic Classification Policy Committee, Mexico's Instituto Nacional de Estadística y Geografía (INEGI) and Statistics Canada, OMB, with one minor exception, made no changes to the scope and substance of the ECPC's recommendations outlined in the August 4, 2015, **Federal Register** notice.

OMB's final decisions regarding revision of NAICS for 2017 are to adopt the recommendations contained in the August 4, 2015, **Federal Register** notice, with an additional title modification for NAICS 33522 from 'Major Appliance Manufacturing' to 'Major Household Appliance Manufacturing' in order to align with NAICS 335220, Major Household Appliance Manufacturing.

Howard A. Shelanski,

Administrator, Office of Information and Regulatory Affairs.

[FR Doc. 2016–18774 Filed 8–5–16; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

Vol. 81 Monday,
No. 152 August 8, 2016

Part IV

The President

Notice of August 4, 2016—Continuation of the National Emergency With Respect to Export Control Regulations

Federal Register
Vol. 81, No. 152
Monday, August 8, 2016

Presidential Documents

Title 3—

The President

Notice of August 4, 2016

Continuation of the National Emergency With Respect to Export Control Regulations

On August 17, 2001, consistent with the authority provided to the President under the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the President issued Executive Order 13222. In that order, he declared a national emergency with respect to the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States in light of the expiration of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2401 *et seq.*). Because the Export Administration Act has not been renewed by the Congress, the national emergency declared on August 17, 2001, must continue in effect beyond August 17, 2016. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 13222, as amended by Executive Order 13637 (March 8, 2013).

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

THE WHITE HOUSE,
August 4, 2016.

[FR Doc. 2016–18943
Filed 8–5–16; 11:15 am]
Billing code 3295–F6–P

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Federal Register

Vol. 81, No. 152

Monday, August 8, 2016

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Executive orders and proclamations **741–6000**

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CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

FEDERAL REGISTER PAGES AND DATE, AUGUST

50283–50604 1
50605–51074 2
51075–51296 3
51297–51772 4
51773–52320 5
52321–52588 8

CFR PARTS AFFECTED DURING AUGUST

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
13675 (amended by 13734) 52321
13734 52321
Administrative Orders:
Notices:
Notice of August 4, 2016 52587
Memorandums:
Memorandum of July 26, 2016 51773
Memorandum of August 3 2016 52323

5 CFR

630 51775

7 CFR

51 51297
205 51075
761 51274
762 51274
763 51274
764 51274
765 51274
766 51274
767 51274
770 51274
772 51274
773 51274
774 51274
799 51274
986 51298
996 50283
1205 51781
1436 51274
1940 51274
Proposed Rules:
319 51381
929 51383
948 50406

9 CFR

77 52325
Proposed Rules:
1 51386
2 51386
3 51386

10 CFR

Proposed Rules:
429 51812
430 52196
431 51812
951 51140

12 CFR

45 50605
237 50605
349 50605
624 50605
1221 50605
Proposed Rules:
34 51394
213 51400
226 ..... 51394, 51404
1013 51400
1026 ..... 51394, 51404

13 CFR

126 51312

14 CFR

13 51079
25 ..... 51081, 51084, 51086, 51090, 51093, 51095
39 ..... 51097, 51314, 51317, 51320, 51323, 51325, 51328, 51330
71 50613
91 50615
97 ..... 51332, 51334, 51337, 51339
406 51079
Proposed Rules:
39 ..... 51142, 51813, 51815, 51818, 51821
71 52369

15 CFR

774 52326

16 CFR

Proposed Rules:
Ch. II 51824

17 CFR

Proposed Rules:
3 51824
4 51828
210 51608
229 51608
230 51608
239 51608
240 51608
249 51608
274 51608

18 CFR

35 50290
154 51100
Proposed Rules:
35 51726

19 CFR

351 50617

20 CFR

404 51100
620 50298
Proposed Rules:
404 51412

21 CFR

11 50303
101 50303
610 52329
1105 52329

Proposed Rules:

175 52370
176 52370
177 52370
178 52370
1105 52371

22 CFR

239 50618

26 CFR

301 51795

Proposed Rules:

1 ..... 50657, 50671, 51413
25 51413
301 ..... 50657, 50671, 51835

28 CFR

Proposed Rules:

31 52377

30 CFR

1241 50306

33 CFR

100 ..... 50319, 50621
117 ..... 50320, 50621, 52335
165 ..... 50622, 51798, 51801, 52335, 52339

34 CFR

36 50321
Ch. II 52341
Ch. III 50324

36 CFR

242 52528

38 CFR

Proposed Rules:

17 51836

39 CFR

230 50624

Proposed Rules:

3001 51145

40 CFR

51 50330
52 ..... 50336, 50339, 50342, 50348, 50351, 50353, 50358, 50360, 50362, 50626, 50628, 51341
56 51102
60 52346
63 ..... 51114, 52346, 52348
97 50630
180 ..... 50630, 52348
257 51802

Proposed Rules:

51 50408
52 ..... 50409, 50415, 50416, 50426, 50427, 50428, 50430, 52388
63 51145
122 50434
152 51425
162 51425
166 51425
257 51838
745 52393

42 CFR

405 51116
412 52056
413 51970
418 52144
424 ..... 51116, 51120
455 ..... 51116, 51120

Proposed Rules:

413 51147
414 51147
494 51147
510 50794
512 50794

43 CFR

10 52352

44 CFR

64 ..... 51808, 52353

47 CFR

1 52354
4 52354

48 CFR

202 50635
212 50635
225 50650
242 50635
245 50652
246 50635
252 ..... 50635, 50650, 50652
609 51125
649 51125
1816 50365
1852 50365

Proposed Rules:

212 50652
246 50680
252 50680

49 CFR

40 52364
665 50367
1002 50652
1040 51343

Proposed Rules:

1109 51147
1144 51149
1145 51149

50 CFR

17 ..... 51348, 51550
18 52276
32 52248
36 52248
100 52528
216 51126
224 50394
300 ..... 50401, 51126
600 51126
622 ..... 51138, 52366
635 51810
648 ..... 51370, 51374, 52366
660 51126
679 ..... 50404, 50405, 51379, 51380, 52367

Proposed Rules:

Ch. II 51426
Ch. III 51426
Ch. IV 51426
Ch. V 51426
Ch. VI 51426
635 51165
679 ..... 50436, 50444, 52394

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List August 4, 2016

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