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

DEPARTMENT OF HOMELAND SECURITY

8 CFR Part 208

Procedures for Asylum and Withholding of Removal

CFR Correction

■ In Title 8 of the Code of Federal Regulations, revised as of January 1, 2013, on page 157, in § 208.13, paragraph (c)(2)(ii) is moved to the end of the section, following paragraph (c)(2)(i)(F).

[FR Doc. 2013–17385 Filed 7–17–13; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HOMELAND SECURITY

8 CFR Part 245

Adjustment of Status to That of Person Admitted for Permanent Residence

CFR Correction

■ In Title 8 of the Code of Federal Regulations, revised as of January 1, 2013, on page 568, in § 245.15, the heading for paragraph (g) is reinstated after paragraph (f)(2) and before paragraph (g)(1) to read as follows:

§ 245.15 Adjustment of status of certain Haitian nationals under the Haitian Refugee Immigrant Fairness Act of 1998 (HRIFA).

* * * * *

(g) *Jurisdiction for filing of applications*— * * *

* * * * *

[FR Doc. 2013–17387 Filed 7–17–13; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

8 CFR Part 1003

Professional Conduct for Practitioners

CFR Correction

■ In Title 8 of the Code of Federal Regulations, revised as of January 1, 2013, on page 857, in § 1003.108, the following words are added to the end of the second sentence in paragraph (a): ''before the filing of a Notice of Intent to Discipline.''

[FR Doc. 2013–17392 Filed 7–17–13; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

8 CFR Part 1208

Procedures for Asylum and Withholding of Removal

CFR Correction

■ In Title 8 of the Code of Federal Regulations, revised as of January 1, 2013, on page 885, in § 1208.13, paragraph (c)(2)(ii) is moved to after paragraph (c)(2)(i)(F).

[FR Doc. 2013–17394 Filed 7–17–13; 8:45 am]

BILLING CODE 1501–01–D

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 200 and 240

[Release No. 34–69979]

RIN 3235–AL35

Rescission of Supervised Investment Bank Holding Company Rules

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission (the ''Commission'') is rescinding rules under the Securities Exchange Act of 1934 (the ''Exchange Act'') that established the Commission's program for supervising investment bank holding companies. The Commission is taking this action pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (the ''Dodd-Frank Act''), which eliminated the applicable section effective July 21, 2011. The Commission also is rescinding certain exemptive provisions in its broker-dealer risk assessment rules and delegation of authority rules that pertain to the supervised investment bank holding company program rules that are being rescinded.

DATES: *Effective Date:* July 18, 2013.

FOR FURTHER INFORMATION CONTACT: Michael A. Macchiaroli, Associate Director, at (202) 551–5525; Thomas K. McGowan, Deputy Associate Director, at (202) 551–5521; Randall W. Roy, Assistant Director, at (202) 551–5522; Mark M. Attar, Branch Chief, at (202) 551–5889; Carrie A. O'Brien, Special Counsel, at (202) 551–5640, or Rachel B. Yura, Attorney, at (202) 551–5729, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–7010.

SUPPLEMENTARY INFORMATION: The Commission is rescinding Exchange Act Rules 17i–1 through 17i–8 and making conforming amendments to Exchange Act Rules 17h–1T and 17h–2T and Rule 30–3 of the Commission's Rules of Organization and Program Management.

I. Discussion

Section 17(i) of the Exchange Act, promulgated under section 231 of the Gramm-Leach-Bliley Act of 1999,[1] authorized the Commission to create a regulatory framework pursuant to which a holding company of a broker-dealer could elect to be supervised by the Commission as a supervised investment bank holding company (''SIBHC'').[2] On June 8, 2004, the Commission adopted Exchange Act Rules 17i–1 through 17i–8 to implement the framework for Commission supervision of SIBHCs under section 17(i).[3]

[1] Public Law 106–102, 113 Stat. 1338 (1999).

[2] 15 U.S.C. 78(q)(i).

[3] *Supervised Investment Bank Holding Companies*, Exchange Act Release No. 49831 (Jun. 8, 2004), 69 FR 34472 (Jun. 21, 2004) (adopting Exchange Act Rules 17i–1 through 17i–8 to implement Exchange Act section 17(i)). *See also Supervised Investment Bank Holding Companies,* Exchange Act Release No. 48694 (Oct. 24, 2003), 68 FR 62910 (Nov. 6, 2003) (proposing rules to implement Exchange Act section 17(i)).

At the time the Commission adopted rules under Exchange Act section 17(i), the Commission amended its risk assessment rules—Exchange Act Rules 17h–1T and 17h–2T—to exempt a broker-dealer that is affiliated with an SIBHC from those rules in part because the SIBHC rules—in particular, Rules 17i–5 and 17i–6—required that the ''SIBHC must make and retain documents substantially similar to those the broker-dealer is required to make and maintain pursuant to Rule 17h–1T'' and the ''SIBHC would be required to make reports that are substantially similar to those the broker-dealer is required to make pursuant to 17h–2T.'' [4] The Commission also adopted amendments to Rule 30–3 of its Rules of Organization and Program Management to delegate authority to the Director of the Division of Market Regulation (now the Division of Trading and Markets) to act on certain requests of SIBHCs.[5]

On July 21, 2010, President Obama signed the Dodd-Frank Act into law.[6] Section 617 of Title VI to the Dodd-Frank Act amended the Exchange Act by eliminating section 17(i).[7] The effective date of section 617 is the ''transfer date,'' [8] which generally is defined in section 311 of the Dodd-Frank Act to mean one year after the date of enactment of the Dodd-Frank Act.[9] As a result, section 17(i) was removed from the Exchange Act effective July 21, 2011.[10]

Because of the effectiveness of section 617 of the Dodd-Frank Act, the Commission is rescinding Exchange Act Rules 17i–1 through 17i–8. The Commission also is amending Exchange Act Rules 17h–1T and 17h–2T to rescind subparagraphs (d)(5) and (b)(5) respectively, which contain the conforming exemptions for broker-dealers affiliated with SIBHCs,[11] and Rule 30–3 subparagraphs (a)(77) through (79) of the Commission's Rules of Organization and Program Management, to remove the delegations of authority that permit the Division Director to act on requests of SIBHCs made pursuant to the SIBHC rules the Commission is rescinding.[12]

The impact of the rescission of the conforming exemptions in the risk assessment rules is that any broker-dealer qualifying for, and relying upon, those exemptions will now have to comply with the risk assessment rules. However, no broker-dealers are affiliated with an SIBHC because, as a result of the elimination of Exchange Act section 17(i) under section 617 of the Dodd-Frank Act, the Commission's SIBHC program is no longer effective, and, accordingly, no broker-dealers can rely on the provisions in the risk assessment rules that exempt a broker-dealer affiliated with an SIBHC from those rules.

II. Procedural and Other Matters

The Administrative Procedure Act (''APA'') generally requires an agency to publish notice of a proposed rulemaking in the **Federal Register**.[13] This requirement does not apply, however, if the agency ''for good cause finds . . . that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' [14] Further, it does not apply to interpretative rules, general statements of policy, and rules of agency organization, procedures or practice.[15] The APA also generally requires that an agency publish a rule in the **Federal Register** 30 days before the rule becomes effective.[16] This requirement, however, does not apply if the agency finds good cause for making the rule effective sooner.[17]

The Commission finds good cause to have these rule rescissions and rule amendments take effect when they are published in the **Federal Register**, and that notice and solicitation of comment before the effective date is unnecessary.[18] In particular, as of July 21, 2011, Rules 17i–1 through 17i–8 no longer have any legal effect. Consequently, their continued inclusion in the Code of Federal Regulations might lead to public confusion. Further, as discussed above, as a result of the elimination of Exchange Act section 17(i) under section 617 of the Dodd-Frank Act, no broker-dealers are affiliated with an SIBHC and, therefore, no broker-dealers can rely on the provisions in the risk assessment rules that exempt a broker-dealer affiliated with an SIBHC from those rules. Moreover, because the Dodd-Frank Act eliminated section 17(i), no firms affiliated with a broker-dealer can elect to be supervised by the Commission as an SIBHC. Because no broker-dealers currently, or will in the future, rely on the exemptions in the risk assessment rules available to broker-dealers affiliated with an SIBHC, the Commission finds that notice and solicitation of comment is unnecessary with respect to the rescission of these exemptions. The Commission also finds that notice and solicitation of comment is unnecessary with respect the delegation of authority rules that the Commission is rescinding in this release because the rescinded aspects of those rules pertain to rules under the SIBHC program that no longer have legal effect and will no longer exist. Further, the Commission notes that notice and

[4] *See Supervised Investment Bank Holding Companies,* 69 FR at 34480. *See also* 17 CFR 240.17h–1T(d)(5) and 17h–2T(b)(5). The risk assessment rules, together with Form 17–H, establish a risk assessment recordkeeping and reporting program. Rule 17h–1T, a recordkeeping rule, requires a broker-dealer to maintain information and other records concerning certain affiliated entities of the broker-dealer. Rule 17h–2T, a reporting rule, requires a broker-dealer to file information regarding its material affiliates on Form 17–H with the Commission.

[5] *See* 17 CFR 200.30–3(a)(77) through (79).

[6] Public Law 111–203, 124 Stat. 1376 (2010).

[7] Public Law 111–203 § 617(a)(1). The Dodd-Frank Act also added section 618, which permits a company that owns at least one registered securities broker or dealer (a ''nonbank securities company'') and that is required by a foreign regulator or provision of foreign law to be subject to comprehensive consolidated supervision, to register with the Board of Governors of the Federal Reserve System (the ''Federal Reserve'') as a securities holding company and become subject to supervision and regulation by the Federal Reserve. Public Law 111–203 § 618. On May 29, 2012, the Federal Reserve adopted a final rule to implement section 618 of the Dodd-Frank Act, which permits securities holding companies to elect to become supervised securities holding companies by registering with the Federal Reserve. *See Supervised Securities Holding Company Registration,* 77 FR 32881 (Jun. 4, 2012).

[8] Public Law 111–203 § 617(b).

[9] Public Law 111–203 § 311(a).

[10] Section 311(b) specifies that the transfer date could be extended to a date no later than 18 months after the date of enactment of the Dodd-Frank Act if the Secretary of the Treasury, after consultation with specified regulators, informed Congress of the extension and published notice of such extension in the **Federal Register** within 270 days after the enactment of the Dodd-Frank Act. The transfer date was not extended; therefore, the transfer date was July 21, 2011 *See, e.g.,* 76 FR 39246 (Jul. 6, 2011) (identifying July 21, 2011 as the ''transfer date'' in the context of the Office of Thrift Supervision becoming part of the Office of the Comptroller of the Currency).

[11] In connection with the Commission's rescission of the exemptions in Rules 17h–1T and 17h–2T for broker-dealers that are affiliated with an SIBHC, the Commission is: (1) Removing paragraph (d)(5) of Rule 17h–1T and redesignating paragraph (d)(6) as paragraph (d)(5); and (2) removing paragraph (b)(5) of Rule 17h–2T and redesignating paragraph (b)(6) as paragraph (b)(5).

[12] The Commission is amending Rule 30–3 of the Commission's Rules of Organization and Program Management by removing and reserving paragraphs (a)(77), (a)(78), and (a)(79).

[13] *See* 5 U.S.C. 553(b).

[14] *Id.*

[15] *Id.*

[16] *See* 5 U.S.C. 553(d).

[17] *Id.*

[18] This finding also satisfies the requirements of 5 U.S.C. 808(2), allowing the rule amendments to become effective notwithstanding the requirements of 5 U.S.C. 801 (if a Federal agency finds that notice and public comment are ''impracticable, unnecessary, or contrary to the public interest,'' a rule ''shall take effect at such time as the Federal agency promulgating the rule determines''). Because the Commission is not publishing the rule amendments in a notice of proposed rulemaking, no analysis is required under the Regulatory Flexibility Act. *See* 5 U.S.C. 601(2) (for purposes of Regulatory Flexibility Analysis, the term ''rule'' means any rule for which the agency publishes a general notice of proposed rulemaking).

comment is not required with regard to the delegations of authority because they relate solely to Commission organization, procedure, or practice.[19]

Section 23(a)(2) of the Exchange Act requires the Commission to consider the competitive effects of rulemaking under the Exchange Act.[20] Further, section 3(f) of the Exchange Act requires the Commission, when engaging in rulemaking where it is required to consider or determine whether an action is necessary or appropriate in the public interest, to consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation.[21] Rescinding the rules related to the SIBHC program will not create any competitive advantages or disadvantages, or affect efficiency, competition, and capital formation because the Commission is merely rescinding rules that no longer have any legal effect.

III. Paperwork Reduction Act

Certain provisions of Rules 17i–1 through 17i–8 contained ''collection of information'' requirements within the meaning of the Paperwork Reduction Act of 1995 (''PRA'').[22] Consequently, the Commission submitted these collections of information to the Office of Management and Budget (''OMB'') for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11.

The titles for the collections of information are: (i) Rule 17i–2 Notice of Intention to be Supervised by the Commission as a Supervised Investment Bank Holding Company; (ii) Rule 17i–3 Withdrawal from Supervision as a Supervised Investment Bank Holding Company; (iii) Rule 17i–4 Internal Risk Management Control Systems Requirements for Supervised Investment Bank Holding Companies; (iv) Rule 17i–5 Record Creation, Maintenance, and Access Requirements for Supervised Investment Bank Holding Companies; (v) Rule 17i–6 Reporting Requirements for Supervised Investment Bank Holding Companies; and (vi) Rule 17i–8 Notification Requirements for Supervised Investment Bank Holding Companies. OMB approved these collections of information and assigned them OMB Control Nos. 3235–0592, 3235–0593, 3235–0594, 3235–0590, 3235–0588, and 3235–0591, respectively.

As noted above, the rules promulgated under section 17(i) established a framework pursuant to which an investment bank holding company could elect to become supervised by the Commission as an SIBHC, as well as recordkeeping and reporting requirements for SIBHCs. Because the Commission is rescinding this regulatory framework, the Commission has discontinued the OMB collections of information associated with it.

As discussed above, to eliminate duplicative recordkeeping and reporting requirements, broker-dealers affiliated with an SIBHC were exempt from Rules 17h–1T and 17h–2T. Any broker-dealer previously relying on the SIBHC exemptions in Rules 17h–1T and 17h–2T (and thus required to comply with Rules 17i–1 through 17i–8) has, since July 21, 2011, been required to comply with Rules 17h–1T and 17h–2T. One broker-dealer that elected to use the SIBHC rules now is required to comply with Rules 17h–1T and 17h–2T. The Commission has accounted for this increased burden in connection with the recent notice seeking comment on the existing collection of information provided for in Rules 17h–1T and 17h–2T.[23]

IV. Statutory Authority and Text of Amendments

The Commission is removing regulations pursuant to authority provided by section 23(a) of the Exchange Act.

List of Subjects

17 CFR Part 200

Administrative practice and procedure; Authority delegations (Government agencies).

17 CFR Part 240

Brokers; Reporting and recordkeeping requirements; Securities.

Text of Amendments

For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Subpart A—Organization and Program Management

■ 1. The authority citation for Part 200, Subpart A, continues to read, in part, as follows:

Authority: 15 U.S.C. 77o, 77s, 77sss, 78d, 78d–1, 78d–2, 78w, 78*ll*(d), 78mm, 80a–37, 80b–11, and 7202, unless otherwise noted.

§ 200.30–3 [Amended]

■ 2. Section 200.30–3 is amended by removing and reserving paragraphs (a)(77), (a)(78), and (a)(79).

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

■ 3. The authority citation for Part 240 continues to read, in part, as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78c–3, 78d, 78e, 78f, 78g, 78i, 78j, 78j–1, 78k, 78k–1, 78*l,* 78m, 78n, 78n–1, 78o, 78o–4, 78p, 78q, 78s, 78u–5, 78w, 78x, 78*ll,* 78mm, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4, 80b–11, and 7201 *et seq.;* and 18 U.S.C. 1350, 12 U.S.C. 5221(e)(3), and sec. 939A, Pub. L. 111–203, 124 Stat. 1376, (2010), unless otherwise noted.

§ 240.17h–1T [Amended]

■ 4. Section 240.17h–1T is amended by:
■ a. Removing paragraph (d)(5); and
■ b. Redesignating paragraph (d)(6) as paragraph (d)(5).

§ 240.17h–2T [Amended]

■ 5. Section 240.17h–2T is amended by:
■ a. Removing paragraph (b)(5); and
■ b. Redesignating paragraph (b)(6) as paragraph (b)(5).

§§ 240.17i–1—240.17i–8 [Removed]

■ 6. Sections 240.17i–1 through 240.17i–8 are removed, including the heading, ''Supervised Investment Bank Holding Company Rules,'' and the Preliminary Note preceding those sections.

By the Commission.

Dated: July 12, 2013.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–17194 Filed 7–17–13; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2013–0320]

RIN 1625–AA00

Safety Zone; Chicago Harbor; Navy Pier Southeast; Chicago, IL

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

[19] *See* 5 U.S.C. 553(b).

[20] 15 U.S.C. 78w(a)(2).

[21] 15 U.S.C. 78c(f).

[22] 44 U.S.C. 3501 *et seq.*

[23] *See Proposed Collection; Comment Request,* 77 FR 31408 (May 25, 2012).

SUMMARY: The Coast Guard is amending the safety zone for Chicago Harbor, Navy Pier Southeast, Chicago, IL. This safety zone is intended to restrict vessels from a portion of Chicago Harbor during fireworks displays, races, and other marine events that occur throughout each calendar year. The safety zone established by this rule is necessary to protect spectators, participants, and vessels from the hazards associated with these fireworks displays, boat races, and other events.

DATES: This final rule is effective August 19, 2013.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2013–0320. To view documents mentioned in this preamble as being available in the docket, go to *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 rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, contact MST1 Joseph McCollum, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI at (414) 747–7148 or by email at *Joseph.P.McCollum@USCG.mil.* If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
TFR Temporary Final Rule

A. Regulatory History and Information

On May 21, 2013, The Coast Guard published a notice of proposed rulemaking entitled ''Safety Zone; Chicago Harbor, Navy Pier SE., Chicago IL'' in the **Federal Register** (78 FR 29680). We did not receive any comments in response to the proposed rule. No public meeting was requested and one was not held.

B. Basis and Purpose

Each year dozens of fireworks displays are launched from barges in positions just south of the Navy Pier in Chicago. These fireworks displays, along with other marine events, take place on a monthly and sometimes weekly basis. The Captain of the Port, Lake Michigan, has determined that these fireworks displays and other events such as races or air shows pose a significant risk to public safety and property. Such hazards include falling debris and collisions among spectator vessels. To address these hazards the Coast Guard established a permanent safety zone for the protection of spectators during these displays and events in 33 CFR 165.931. This year, however, the Coast Guard was informed by Melrose Pyrotechnics that a new launch position will be used for some of the fireworks displays. This new position launches a display from a break wall south of the Navy Pier and would impact portions of Chicago Harbor hundreds of feet beyond the boundaries of the zone as it is currently listed. To address this new launch position, and to ensure safety of spectators and vessels, this rule extends the boundaries of the safety zone within 33 CFR 165.931.

C. Discussion of Comments, Changes and the Final Rule

The Captain of the Port, Lake Michigan, has determined that a safety zone is necessary to mitigate the aforementioned safety risks. Thus, this rule amends 33 CFR 165.931 and establishes a permanent safety zone on Lake Michigan within Chicago harbor. This rule amends 33 CFR 165.931 to read: The following area is a safety zone: The waters of Lake Michigan within Chicago Harbor bounded by coordinates beginning at 41°53′26.5″ N, 087°35′26.5″ W; then south to 41°53′7.6″ N, 087°35′26.3″ W; then west to 41°53′7.6″ N, 087°36′23.2″ W; then north to 41°53′26.5″ N, 087°36′24.6″ W; then east back to the point of origin (NAD 83).

The Captain of the Port Lake Michigan will use all appropriate means to notify the public when the safety zone established by this rule will be enforced. Consistent with 33 CFR 165.7(a), such means may include, among other things, publication in the **Federal Register,** Broadcast Notice to Mariners, or Local Notice to Mariners.

Entry into, transiting, or anchoring within this safety zone during the period of enforcement is prohibited unless authorized by the Captain of the Port, Lake Michigan, or his or her designated on-scene representative. The Captain of the Port, Lake Michigan, or his or her designated on-scene representative may be contacted via VHF Channel 16.

D. 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 or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security. We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will be relatively small and enforced in short periods immediately before, during, and after the time the displays and events occur. Also, this safety zone is designed to minimize its impact on navigable waters. Furthermore, the safety zone has been designed to allow vessels to transit portions of the waterways not affected by the safety zone. Thus, restrictions on vessel movements within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port, Lake Michigan. On the whole, the Coast Guard expects insignificant adverse impact to mariners from the activation of this safety zone.

2. Impact on Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in portions of Chicago Harbor when this safety zone is being enforced.

3. Assistance for Small Entities

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 so that they can better evaluate its effects on them and participate in the rulemaking process. If this 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 **FOR FURTHER INFORMATION CONTACT** section, above.

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.

4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

6. 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.

7. 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.

8. Taking of Private Property

This rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights.

9. Civil Justice Reform

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

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

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.

12. Energy Effects

This action is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. 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 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a safety zone and thus, is categorically excluded under paragraph (34)(g) of the Instruction. An environmental analysis checklist supporting this determination is available in the docket where indicated under **ADDRESSES**.

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; 46 U.S.C. Chapters 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 165.931 to read as follows:

§ 165.931 Safety Zone; Chicago Harbor, Navy Pier Southeast, Chicago, IL.

(a) *Location.* The following area is a safety zone: The waters of Lake Michigan within Chicago Harbor bounded by coordinates beginning at 41°53′26.5″ N, 087°35′26.5″ W; then south to 41°53′7.6″ N, 087°35′26.3″ W; then west to 41°53′7.6″ N, 087°36′23.2″ W; then north to 41°53′26.5″ N, 087°36′24.6″ W then east back to the point of origin (NAD 83).

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

(1) *Designated representative* means any Coast Guard Commissioned, warrant, or petty officer designated by the Captain of the Port, Lake Michigan to monitor a safety zone, permit entry into the zone, give legally enforceable orders to persons or vessels within the zone, and take other actions authorized by the Captain of the Port.

(2) *Public vessel* means vessels owned, chartered, or operated by the United States, or by a State or political subdivision thereof.

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

(2) This safety zone is closed to all vessel traffic, excepted as may be permitted by the Captain of the Port, Lake Michigan or his designated representative. All persons and vessels must comply with the instructions of the Coast Guard Captain of the Port or his designated representative. Upon being hailed by the U.S. Coast Guard by siren, radio, flashing light or other means, the operator of a vessel shall proceed as directed.

(3) All vessels must obtain permission from the Captain of the Port or his designated representative to enter, move within, or exit the safety zone established in this section when this safety zone is enforced. Vessels and persons granted permission to enter the safety zone must obey all lawful orders or directions of the Captain of the Port or a designated representative.

(d) *Notice of Enforcement or Suspension of Enforcement.* The safety zone established by this section will be enforced only upon notice of the Captain of the Port. The Captain of the Port will cause notice of enforcement of the safety zone established by this section to be made by all appropriate means to the affected segments of the public including publication in the **Federal Register** as practicable, in accordance with 33 CFR 165.7(a). Such means of notification may also include, but are not limited to Broadcast Notice to Mariners or Local Notice to Mariners.

(e) *Exemption.* Public vessels, as defined in paragraph (b) of this section, are exempt from the requirements in this section.

(f) *Waiver.* For any vessel, the Captain of the Port Lake Michigan or his designated representative may waive any of the requirements of this section, upon finding that operational conditions or other circumstances are such that application of this section is unnecessary or impractical for the purposes of public or environmental safety.

Dated: July 1, 2013.

M.W. Sibley,

Captain, U.S. Coast Guard, Captain of the Port, Lake Michigan.

[FR Doc. 2013–17108 Filed 7–17–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF EDUCATION

34 CFR Chapter III

[CFDA Number: 84.133B–11]

Final Priority; National Institute on Disability and Rehabilitation Research—Rehabilitation Research and Training Centers

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Final priority.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services announces a priority for the Disability and Rehabilitation Research Projects and Centers Program administered by the National Institute on Disability and Rehabilitation Research (NIDRR). Specifically, we announce a priority for a Rehabilitation Research and Training Center (RRTC) on Community Living Policy. The Assistant Secretary may use this priority for competitions in fiscal year (FY) 2013 and later years. We take this action to focus research attention on areas of national need. We intend this priority to improve outcomes among individuals with disabilities.

DATES: *Effective Date:* This priority is effective August 19, 2013.

FOR FURTHER INFORMATION CONTACT: Marlene Spencer, U.S. Department of Education, 400 Maryland Avenue SW., Room 5133, PCP, Washington, DC 20202–2700. Telephone: (202) 245–7532 or by email: *marlene.spencer@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 Disability and Rehabilitation Research Projects and Centers Program is to plan and conduct research, demonstration projects, training, and related activities, including international activities, to develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities, and to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (Rehabilitation Act).

Rehabilitation Research and Training Centers

The purpose of the RRTCs, which are funded through the Disability and Rehabilitation Research Projects and Centers Program, is to achieve the goals of, and improve the effectiveness of services authorized under, the Rehabilitation Act through advanced research, training, technical assistance, and dissemination activities in general problem areas, as specified by NIDRR. These activities are designed to benefit rehabilitation service providers, individuals with disabilities, and the family members or other authorized representatives of individuals with disabilities. Additional information on the RRTC program can be found at: *www.ed.gov/rschstat/research/pubs/res-program.html#RRTC.*

Program Authority: 29 U.S.C. 762(g) and 764(b)(2).

Applicable Program Regulations: 34 CFR part 350.

We published a notice of proposed priority in the **Federal Register** on May 15, 2013 (78 FR 28543). That notice contained background information and our reasons for proposing the priority.

There are differences between the proposed priority and the final priority as discussed under *Analysis of Comments and Changes.*

Public Comment: In response to our invitation in the notice of proposed priority, two parties submitted comments on the proposed priority.

Generally, we do not address technical and other minor changes or suggested changes the law does not authorize us to make under the applicable statutory authority. In addition, we do not address general comments that raised concerns not directly related to the proposed priority.

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

Comment: One commenter noted that there are few Federal and State efforts to collect data on long-term services and supports for individuals with disabilities, relative to data collection efforts that focus on acute health care services. In this context, the commenter recommended that NIDRR expand paragraph (a) to require the RRTC to work with NIDRR and the Administration for Community Living to propose and develop new data resources, such as additional measures to be included in existing surveys, or to create new data sets and surveys.

Discussion: NIDRR agrees with the commenter that additional data resources are needed in the area of long-

term services and supports. However, we also recognize that the RRTC budget, the limited availability of other Federal and State resources, and the grantee's lack of authority to shape government data collection practices, are likely to limit the RRTC's ability to propose and develop additional data resources. To help move the field toward the development of better data resources in this area, NIDRR is modifying the priority to require the RRTC to identify gaps in available data and informational resources and to recommend strategies to fill these gaps.

Changes: NIDRR has added a third task to paragraph (a) that requires the RRTC to identify gaps in available data and informational resources and to identify strategies to fill these gaps.

Comment: One commenter noted that paragraph (f)(ii) is focused on the provision of training to improve services to individuals who are aging with long-term physical disabilities, while all other sections of the priority state the target population more broadly as individuals with disabilities. This commenter recommends modifying the language in paragraph (f)(ii) to reflect the broad target population of individuals with disabilities. Similarly, a second commenter suggested that the priority clearly state that the new RRTC is to address the needs of people with disabilities of all ages.

Discussion: NIDRR agrees with the commenters and intends this RRTC to focus broadly on long-term services and supports for individuals with disabilities of all ages.

Changes: NIDRR has modified paragraph (f)(ii) to describe the target population more broadly as individuals with disabilities. To address the second commenter's point, we have modified the second sentence of the priority's opening paragraph to state that the target population is individuals with disabilities of all ages.

Comment: One commenter recommended that NIDRR modify paragraph (f)(ii) to specifically mention providers of long-term services and supports as targets of training to be provided by the RRTC.

Discussion: Paragraph (f)(ii) allows applicants to propose training to a broad variety of disability service providers, which may include providers of long-term services and supports. Nothing in the priority precludes applicants from proposing to provide training to providers of long-term services and supports. However, we do not want to preclude applications from organizations that are not planning to provide training to these providers. The peer review process will determine the merits of each proposal.

Changes: None.

Comment: One commenter recommended that NIDRR require the RRTC to include providers of home- and community-based long-term services and supports, and advocates for people with disabilities, as integral members of the RRTC staff.

Discussion: Paragraph (c) requires the RRTC to identify and involve key stakeholders in its work, including individuals with disabilities and their families and service providers. Further, nothing in the priority precludes applicants from proposing to include providers of home- and community-based long-term services and supports, or disability advocates as members of their RRTC staff. However, we do not want to preclude applications from organizations that are not planning to include these specific stakeholders as part of their proposed staff. The peer review process will determine the merits of each proposal.

Changes: None.

Comment: As a means of encouraging innovation and competitive pricing in the area of community living policy, one commenter suggested that the priority incorporate performance-based acquisition principles outlined in the May 22, 2007, Office of Management and Budget Memorandum for Chief Acquisition Officers and Senior Procurement Executives, titled ''Using Performance-Based Acquisition to Meet Program Needs—Performance Goals, Guidance, and Training.''

Discussion: Nothing in the priority precludes applicants from proposing to use performance-based acquisition principles in designing an approach to this priority. NIDRR does not, however, have a basis for requiring that all applicants do this. The peer review process will determine the merits of each proposal.

Change: None.

Final Priority

Background

This final priority is in concert with NIDRR's Long-Range Plan for Fiscal Years 2013–2017 (Plan). The Plan, which was published in the **Federal Register** on April 4, 2013 (78 FR 20299), can be accessed on the Internet at the following site: *www.ed.gov/about/offices/list/osers/nidrr/policy.html.*

Through the implementation of the Plan, NIDRR seeks to improve the health and functioning, employment, and community living and participation of individuals with disabilities through comprehensive programs of research, engineering, training, technical assistance, and knowledge translation and dissemination. The Plan reflects NIDRR's commitment to quality, relevance, and balance in its programs to ensure appropriate attention to all aspects of well-being of individuals with disabilities and to all types and degrees of disability, including low-incidence and severe disability.

Priority—RRTC on Community Living Policy

The Assistant Secretary for Special Education and Rehabilitative Services, in collaboration with the Administration on Community Living (ACL), establishes a priority for an RRTC on Community Living Policy. The RRTC will engage in research, statistical analyses and modeling, knowledge translation, development of informational products, and dissemination to contribute to increased access to, and improved quality of, long-term services and supports (LTSS) for individuals with disabilities of all ages. The RRTC's work is intended to inform the design, implementation, and continuous improvement of Federal and State policies and programs related to LTSS for individuals with disabilities. The RRTC will identify and develop information for individuals with disabilities and their family members to guide their informed choice of community service and support options that best meet their needs.

The RRTC must be designed to contribute to improved community living and participation outcomes of individuals with disabilities. The RRTC must contribute to these outcomes by:

(a) Establishing a long-term research plan related to community living policy. This plan, once implemented, must contribute relevant and high-quality data and information that will serve as an empirical foundation for improving community living policies and programs for individuals with disabilities. This task includes:

(i) Developing and prioritizing a list of research questions and evaluation topics that, when addressed, will lead to research-based information that can be used to improve community living policies, programs, and outcomes;

(ii) Working with NIDRR and ACL to identify relevant data sets and informational resources that can be analyzed to address the questions and topics in the research plan; and

(iii) Working with NIDRR and ACL to identify gaps in data and information resources that are available to address the questions and topics in the research plan and to identify strategies to fill those gaps.

(b) Conducting research and research syntheses to identify and evaluate promising practices that States have used and could adopt as part of their State systems for the provision of LTSS. This task includes:

(i) Identifying components of national or State standards for ''model'' LTSS State systems; and

(ii) Identifying and assessing methods for monitoring, tracking, and evaluating States' LTSS systems.

(c) Identifying and involving key stakeholders in the research and research planning activities conducted under paragraphs (a) and (b) to maximize the relevance and usefulness of the research products being developed. Stakeholders must include, but are not limited to, individuals with disabilities and their families, national, State, and local-level policymakers, service providers, and relevant researchers in the field of disability and rehabilitation research.

(d) Identifying, evaluating, and disseminating accessible information at the national, State, and provider levels on topics of importance to the development and implementation of high-quality community living policies and programs. These topics include, but are not limited to: Transitions from fee-for-service to integrated/managed LTSS systems and associated outcomes and costs; transitions from agency-directed to consumer-directed services and associated outcomes and costs; costs and benefits of various supports for individuals and families, such as care coordination, respite care, and remote monitoring; and other topics to be determined in collaboration with key stakeholders and NIDRR and ACL representatives.

(e) Establishing a network of technical assistance providers and advocacy entities to assist in synthesizing and disseminating information related to implementing high-quality community living policies, programs, and practices for individuals with disabilities. Network members may include, but are not limited to: The Americans with Disabilities Act National Network Regional Centers, the Aging and Disability Resource Centers, the Governor's Planning Councils on Developmental Disabilities, the Money Follows the Person Technical Assistance Center, Client Assistance Programs, and Protection and Advocacy Programs.

(f) Serving as a national resource center related to community living policy by:

(i) Providing information and technical assistance to service providers, individuals with disabilities and their representatives, and other key stakeholders; and

(ii) Providing training, including graduate, pre-service, and in-service training, to rehabilitation providers, rehabilitation research personnel, and other disability service providers, to facilitate more effective delivery of services to individuals with disabilities. This training may be provided through conferences, workshops, public education programs, in-service training programs, and similar activities.

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 this priority, 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 this final priority only upon a reasoned determination that its benefits would justify its costs. In choosing among alternative regulatory approaches, we selected those approaches that would 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 benefits of the Disability and Rehabilitation Research Projects and Centers Program have been well established over the years, as projects similar to the one envisioned by the final priority have been completed successfully. The new RRTC will generate and promote the use of new knowledge that will improve outcomes for individuals with disabilities in the area of community living and participation.

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 Adobe 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: July 15, 2013.

Michael K. Yudin,

Delegated the authority to perform the functions and the duties of the Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2013–17273 Filed 7–17–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

34 CFR Chapter III

[Catalog of Federal Domestic Assistance (CFDA) Number: 84.264A]

Final Extension of Project Period and Waiver; Rehabilitation Continuing Education Program for the Technical Assistance and Continuing Education Centers (TACE Centers)

AGENCY: Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Final extension of project period and waiver.

SUMMARY: The Secretary waives the requirements that generally prohibit project periods exceeding five years and extensions of project periods involving the obligation of additional Federal funds. This extension and waiver enables the currently funded TACE Centers to receive funding through September 30, 2014.

DATES: The extension of the project period and waiver are effective July 18, 2013.

FOR FURTHER INFORMATION CONTACT: RoseAnn Ashby, U.S. Department of Education, 400 Maryland Avenue SW., Room 5055, Potomac Center Plaza, Washington, DC 20202–2800. Telephone: (202) 245–7258.

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: On March 15, 2013, the Department published a notice in the **Federal Register** (78 FR 16447) proposing an extension of project period and a waiver of 34 CFR 75.250 and 34 CFR 75.261(c)(2) in order to—

(1) Enable the Secretary to provide additional funds to eight of the currently funded TACE Centers for an additional 12-month period, from October 1, 2013, through September 30, 2014, and to provide additional funds to two of the TACE Centers from December 22, 2013, through September 30, 2014; and

(2) Invite comments on the proposed extension of project period and waiver.

There are no substantive differences between the proposed extension and waiver and this final extension and waiver.

Public Comment

In response to our invitation in the proposed extension of project period and waiver, seven parties submitted comments. All of the commenters supported the Department's proposed extension and waiver, to permit eight of the TACE Centers to receive Federal funds from October 1, 2013, through September 30, 2014, and to permit two of the TACE Centers to receive funds from December 22, 2013, through September 30, 2014.

Generally, we do not address technical and other minor changes. In addition, we do not address general comments that raise concerns not directly related to the proposed extension and waiver.

Analysis of Comments and Changes: An analysis of the comments and of any changes in the extension and waiver since publication of the proposed extension and waiver follows.

Comment: Seven commenters supported extending the TACE Centers' project period for another year to avoid a disruption in the technical assistance (TA) and continuing education (CE) provided to State vocational rehabilitation (VR) agencies and their partners in the ten Federal regions.

Discussion: We appreciate the commenters' support.

Changes: None.

Background

On June 5, 2008, and October 20, 2008, the Department published notices in the **Federal Register** (73 FR 32006, 73 FR 62263) inviting applications for new awards for fiscal years (FYs) 2008 and 2009 for TACE Centers to be funded under the Rehabilitation Training Program, authorized under Section 302 of the Rehabilitation Act of 1973, as amended. The Department awarded grants to a total of 10 TACE Centers—eight in FY 2008 and two in early FY 2009—for a period of 60 months. All 10 projects are scheduled to end in calendar year 2013.

The purpose of these centers is to improve the quantity and quality of employment outcomes for individuals with disabilities through enhanced technical assistance (TA) and continuing education (CE) for State VR agencies and agency partners that cooperate with State VR agencies in

providing VR and other rehabilitation services (e.g., Centers for Independent Living, Client Assistance Programs, and Community Rehabilitation Programs).

The TACE Centers contribute to the following outcomes: Improved quality of VR services, increased effectiveness and efficiency of State VR agencies in delivering VR services, and improved quantity and quality of VR employment outcomes for individuals with disabilities. The TACE Centers must contribute to these outcomes by providing, either directly or through contract, TA to State VR agencies and agency partners. The TACE Centers must also provide CE to employees of State VR agencies and agency partners on topics that are identified jointly by the Rehabilitation Services Administration and each TACE Center's advisory committee, and included in the TACE Center's annual work plan.

The Department is in the process of reviewing and analyzing the current program to determine future needs, strategies, and funding priorities for FY 2014. As such, we do not believe that it would be in the public interest to run a competition for new TACE Centers this year.

For this reason, the Secretary waives the requirements in 34 CFR 75.250 and 34 CFR 75.261(c)(2), which prohibit project periods exceeding five years and extensions of project periods involving the obligation of additional Federal funds. The Secretary also extends the current project period for the ten TACE Center grantees funded in FYs 2008 and 2009 until September 30, 2014.

This extension of project period and waiver allows the ten TACE Center grantees to request continuation funding in FY 2013 for project periods through FY 2014. We base our decisions regarding continuation awards on the program narratives, budgets, budget narratives, and program performance reports submitted by these ten TACE Center grantees and the requirements in 34 CFR 75.253. Any activities to be carried out during the year of a continuation award must be consistent with, or be a logical extension of, the scope, goals, and objectives of a grantee's application as approved in the 2008 TACE Center competitions. The 2008 TACE Center notices inviting applications will continue to govern these projects during the extension year.

Waiver of Delayed Effective Date

The Administrative Procedure Act requires that a substantive rule must be published at least 30 days before its effective date, except as otherwise provided for good cause (5 U.S.C. 553(d)(3)). We have not made any substantive changes to the proposed extension of project period and waiver. The Secretary has therefore determined to waive the delayed effective date to ensure timely continuation grants to the entities affected and continuation of the valuable services the TACE Centers provide.

Regulatory Flexibility Act Certification

The Secretary certifies that this final extension of the project period and waiver will not have a significant economic impact on a substantial number of small entities. The only entities that will be affected are the current grantees and any other potential applicants.

Paperwork Reduction Act of 1995

The final extension of project period and waiver do not contain any information collection requirements.

Intergovernmental Review

This program is not subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79.

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 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 Adobe 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: July 15, 2013.

Michael K. Yudin,

Delegated the authority to perform the functions and the duties of the Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2013–17271 Filed 7–17–13; 8:45 am]

BILLING CODE 4000–01–P

LIBRARY OF CONGRESS

U.S. Copyright Office

37 CFR Parts 201 and 202

[Docket No. 2013–7]

Communication with the U.S. Copyright Office: Revised Addresses

AGENCY: U.S. Copyright Office, Library of Congress.

ACTION: Final rule.

SUMMARY: The U.S. Copyright Office (or ''Office'') is amending its regulations to revise the mailing addresses for filing claims and sending other correspondence and documents to the Office. The revised addresses direct such document deliveries to the appropriate location in the Office in a more timely and efficient manner.

DATES: This rule is effective July 18, 2013.

FOR FURTHER INFORMATION CONTACT: Robert Kasunic, Associate Register of Registration Policy and Practices, U.S. Copyright Office, P.O. Box 70400, Washington, DC 20024–0400. Telephone (202) 707–8380; fax (202) 707–8366.

SUPPLEMENTARY INFORMATION: The U.S. Copyright Office is amending its regulations regarding communication with the Office. It is updating the mailing addresses for general inquiries made to a particular division or section of the Office, as well as mail communications concerning particular situations. The revisions provide the appropriate codes to direct mail to the correct location by general subject matter. These revisions also list the limited purpose addresses that are used in particular circumstances or for particular services. In the case of disruptions in mail services, the Office directs the public to the U.S. Copyright Office Web site for additional information.

Persons sending communications by mail should note that due to off-site screening of all mail delivered to federal offices on Capitol Hill, receipt of mail at the U.S. Copyright Office can be delayed by several days. Moreover, deliveries by couriers must be made to an off-site facility. For more information, go to *http://www.copyright.gov/mail.html.*

List of Subjects

37 CFR Part 201

Copyright: General provisions.

37 CFR Part 202

Copyright, Registration.

Final Regulation

In consideration of the foregoing, under the authority of 17 U.S.C. 702, the U.S. Copyright Office amends 37 CFR chapter II as follows:

CHAPTER II—U.S. COPYRIGHT OFFICE, LIBRARY OF CONGRESS

■ 1. The heading of chapter II is revised to read as set forth above.

PART 201—GENERAL PROVISIONS

■ 2. The authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 702.

■ 3. Revise § 201.1 to read as follows:

§ 201.1 Communication with the U.S. Copyright Office.

(a) *General purpose addresses.* Members of the public must use the correct address in order to facilitate timely receipt by the U.S. Copyright Office division or section to which an inquiry should be directed. The address set forth in paragraph (b) may be used for general inquiries made to a particular division or section of the U.S. Copyright Office. Addresses for special, limited purposes are provided below in paragraph (c) of this section. Please note that the Library of Congress no longer accepts on-site deliveries from commercial and private couriers.[1] For additional address information, including information on courier delivery, mail delays, or disruptions, please visit the ''Contact us'' section on the Office's Web site (*http://www.copyright.gov*). General questions may also be directed to the U.S. Copyright Office Web site submission form at: *http://www.copyright.gov/help/general-form.html.*

(b) *General purpose address.* (1) Mail and other communications that do not come under the areas listed in paragraph (b)(2) of this section shall be addressed to the Library of Congress, U.S. Copyright Office, 101 Independence Avenue SE., Washington, DC 20559–6000.

(2) *Codes to facilitate the routing of mail.* To assure that postal mail is routed correctly within the U.S. Copyright Office, applicants should indicate, by the appropriate code, the general subject matter of the correspondence. Such correspondence should be addressed to the Office in the following manner: Library of Congress, U.S. Copyright Office—(Insert appropriate code listed below), 101 Independence Avenue SE., Washington, DC 20559.

Type of submission	Code
Registration of Literary Works	TX
Registration of Serials	SE
Registration of Visual Arts Works	VA
Registration of Works of the Performing Arts, except Motion Pictures.	PA
Registration of Sound Recordings	SR
Registration of Motion pictures	MP
Registration of Renewal claims	RE
Document Recordations	DOC
Registration of Mask Works	MW
Registration of Vessel Hull Designs	VH
Copyright Acquisitions	CAD
Deposit Demands	AD
Licensing Division	LD
Notice to Libraries and Archives	NLA
Publications Section	PUB

(c) *Limited purpose addresses.* The following addresses may be used only in the special, limited circumstances given for a particular U.S. Copyright Office service:

(1) *Time Sensitive Requests.* Notices related to the filing of copyright infringement suits and submitted pursuant to 17 U.S.C. 411(a) and 17 U.S.C. 508; requests pursuant to 17 U.S.C. 411(b)(2) from district courts to the Register of Copyrights, all other correspondence to the Office of the General Counsel and the Office of Policy and International Affairs, and requests for expedited service from the Records Research and Certification Section of the Information and Records Division to meet the needs of pending or prospective litigation, customs matters, or contract or publishing deadlines should be addressed to: U.S. Copyright Office, P.O. Box 70400, Washington, DC 20024–0400. Freedom of Information Act (FOIA) requests and FOIA appeals must also be mailed to: P.O. Box 70400, Washington, DC 20024–0400, but clearly labeled ''Freedom of Information Act Request'' or ''Freedom of Information Act Appeal'' as appropriate.

(2) *Notices of Termination.* Notices of Termination of transfers and licenses under Sections 203 and 304 of the Copyright Act should be addressed to: U.S. Copyright Office, Notices of Termination, P.O. Box 71537, Washington, DC 20024–1537.

(3) *Online Service Providers.* The designation of an agent to receive notification of claims of infringement for online service providers should be addressed to: U.S. Copyright Office, Designated Agents, P.O. Box 71537, Washington, DC 20024–1537.

(4) *Reconsiderations of Refusals To Register and Requests for Cancellation.* First and second requests for reconsideration of refusal to register a copyright, mask work, or vessel hull claim, and requests to cancel registered works should be addressed to: U.S. Copyright Office, RAC Division, P.O. Box 71380, Washington, DC 20024–1380.

(5) *Searches and Copies of Records or Deposits.* Requests for searches of registrations and recordations in the completed catalogs, indexes, and/or other records of the U.S. Copyright Office as well as requests for copies of records or deposits for use in litigation or other authorized purposes should be addressed to: U.S. Copyright Office, Records Research and Certification, P.O. Box 70400, Washington, DC 20559–0400.

(6) *Inquiries to Licensing Division.* Notices related to statutory licenses under 17 U.S.C. 112, 114, and 115 should be addressed to: U.S. Copyright Office, P.O. Box 70977, Washington, DC 20024–0400. Statements of account related to statutory licenses under 17 U.S.C. 119 and chapter 10 should be addressed to: U.S. Copyright Office, SOA, P.O. Box 70400, Washington, DC 20024–0400. Filings or inquiries related to Section 111 licenses should be sent to Library of Congress, U.S. Copyright Office, Attn: 111 Licenses, 101 Independence Avenue SE., Washington, DC 20559.

(7) *Copyright Acquisitions.* Deposit copies submitted under Section 407 of the Copyright Act should be addressed to: Library of Congress, U.S. Copyright Office, Attn: 407 Deposits, 101 Independence Avenue SE., Washington, DC 20559. Serial publishers submitting their required complimentary subscriptions to comply with group registration requirements should address these subscriptions to the Library of Congress, Group Periodicals Registration, 101 Independence Ave. SE., Washington, DC 20540–4161.

■ 4. Amend § 201.2 by revising paragraph (b)(5) to read as follows:

§ 201.2 Information given by the U.S. Copyright Office.

* * * * *

(b) * * *

(5) In exceptional circumstances, the Register of Copyrights may allow inspection of pending applications and open correspondence files by someone other than the copyright claimant, upon submission of a written request which is deemed by the Register to show good cause for such access and establishes that the person making the request is one properly and directly concerned. The written request should be mailed to the address specified in § 201.1(c)(5).

* * * * *

■ 5. Amend § 201.5 by revising paragraph (c)(2) to read as follows:

[1] *See* 69 FR 5371 (Feb. 4, 2004) and 68 FR 70039 (Dec. 16, 2003).

§ 201.5 Corrections and amplifications of copyright registrations; applications for supplementary registration.

* * * * *

(c) * * *

(2) The form prescribed by the U.S. Copyright Office for the foregoing purposes is designated ''Application for Supplementary Copyright Registration (Form CA).'' Copies of the form are available on the U.S. Copyright Office Web site or for free upon request at the address specified in § 201.1.

* * * * *

■ 6. Amend § 201.8 by revising paragraph (g) to read as follows:

§ 201.8 Disruption of postal or other transportation or communication services.

* * * * *

(g) Requests made pursuant to paragraph (b) of this section shall be mailed to one of the addresses specified in § 201.1.

■ 7. Amend § 201.10 by revising paragraph (f)(7) to read as follows:

§ 201.10 Notices of termination of transfers and licenses.

* * * * *

(f) * * *

(7) Notices of termination should be submitted to the address specified in § 201.1.

* * * * *

■ 8. Amend § 201.11 by revising paragraph (d)(1) to read as follows:

§ 201.11 Satellite carrier statements of account covering statutory licenses for secondary transmissions.

* * * * *

(d) *Forms.* (1) Each Statement of Account shall be furnished on an appropriate form prescribed by the U.S. Copyright Office, and shall contain the information required by that form and its accompanying instructions. Computation of the copyright royalty fee shall be in accordance with the procedures set forth in the forms. Copies of Statement of Account forms are available free upon request. Requests may be mailed to the address specified in § 201.1.

* * * * *

■ 9. Amend § 201.17 by revising paragraph (d)(1) to read as follows:

§ 201.17 Statements of Account covering compulsory licenses for secondary transmissions by cable systems.

* * * * *

(d) *Forms.* (1) Each Statement of Account shall be furnished on an appropriate form prescribed by the U.S. Copyright Office, and shall contain the information required by that form and its accompanying instructions. Computation of distant signal equivalents and the copyright royalty fee shall be in accordance with the procedures set forth in the forms. Copies of Statement of Account forms are available free upon request. Requests may be mailed to the address specified in § 201.1.

* * * * *

■ 10. Amend § 201.27 by revising paragraph (c) to read as follows:

§ 201.27 Initial notice of distribution of digital audio recording devices or media.

* * * * *

(c) *Forms.* An Initial Notice form may be obtained from the U.S. Copyright Office free of charge by contacting the address specified in § 201.1.

* * * * *

■ 11. Amend § 201.29 by revising paragraph (e)(3) to read as follows:

§ 201.29 Access to, and confidentiality of, Statements of Account, Verification Auditor's Reports, and other verification information filed in the U.S. Copyright Office for digital audio recording devices or media.

* * * * *

(e) * * *

(3) DART Access Forms may be requested from, and upon completion returned to the address specified in § 201.1.

* * * * *

■ 12. Amend § 201.33 by revising paragraphs (d)(1) and (e)(2)(ii) to read as follows:

§ 201.33 Procedures for filing Notices of Intent to Enforce a restored copyright under the Uruguay Round Agreements Act.

* * * * *

(d) *Requirements for Notice of Intent to Enforce a Copyright Restored under the Uruguay Round Agreements Act.* (1) Notices of Intent to Enforce should be mailed to the address specified in § 201.1.

* * * * *

(e) * * *

(2) * * *

(ii) *U.S. Copyright Office Deposit Account.* The U.S. Copyright Office maintains a system of Deposit Accounts for the convenience of those who frequently use its services. The system allows an individual or firm to establish a Deposit Account in the U.S. Copyright Office and to make advance deposits into that account. Deposit Account holders can charge copyright fees against the balance in their accounts instead of sending separate remittances with each request for service. For information on Deposit Accounts, see Circular 5 on the U.S. Copyright Office's Web site, or request a copy at the address specified in § 201.1.

* * * * *

■ 13. Amend § 201.34 by revising paragraph (d)(2) to read as follows:

§ 201.34 Procedures for filing Correction Notices of Intent to Enforce a Copyright Restored under the Uruguay Round Agreements Act.

* * * * *

(d) * * *

(2) Correction Notices of Intent to Enforce should be addressed to Attn: URAA/GATT, NIE and Registrations and mailed to the address specified in § 201.1.

* * * * *

■ 14. Amend § 201.38 by revising the first sentence of paragraph (e) to read as follows:

§ 201.38 Designation of agent to receive notification of claimed infringement.

* * * * *

(e) *Filing.* A service provider may file the Interim Designation of Agent to Receive Notification of Claimed Infringement at the address specified in § 201.1. * * *

* * * * *

■ 15. Amend § 201.39 by revising paragraphs (g)(1) and (g)(3)(ii) to read as follows:

§ 201.39 Notice to Libraries and Archives of Normal Commercial Exploitation or Availability at Reasonable Price.

* * * * *

(g) *Filing*—(1) Method of filing. The Notice to Libraries and Archives of Normal Commercial Exploitation or Availability at Reasonable Price should be addressed to NLA, at the address specified in § 201.1.

* * * * *

(3) * * *

(ii) *U.S. Copyright Office Deposit Account.* The U.S. Copyright Office maintains a system of Deposit Accounts for the convenience of those who frequently use its services. The system allows an individual or firm to establish a Deposit Account in the U.S. Copyright Office and to make advance deposits into that account. Deposit Account holders can charge copyright fees against the balance in their accounts instead of sending separate remittances with each request for service. For information on Deposit Accounts, see Circular 5 on the U.S. Copyright Office's Web site, or request a copy at the address specified in § 201.1.

* * * * *

PART 202—PREREGISTRATION AND REGISTRATION OF CLAIMS TO COPYRIGHT

■ 16. The authority citation for part 202 continues to read as follows:

Authority: 17 U.S.C. 408, 702.

■ 17. Amend § 202.3 by revising paragraphs (b)(6)(ii) and (b)(6)(iii) to read as follows:

§ 202.3 Registration of copyright.

* * * * *

(b) * * *

(6) * * *

(ii) To be eligible for group registration of serials, publishers must submit a letter affirming that two complimentary subscriptions to the particular serial have been entered for the Library of Congress. The letter should be mailed to the address specified in § 201.1 of this chapter.

(iii) The complimentary subscription copies must be mailed to the address specified in § 201.1 of this chapter.

* * * * *

■ 18. Amend § 202.5 by revising paragraph (d)(1) to read as follows:

§ 202.5 Reconsideration Procedure for Refusals to Register.

* * * * *

(d) *Submission of reconsiderations.* (1) All submissions for reconsideration should be mailed to the address specified in § 201.1 of this chapter.

* * * * *

■ 19. Amend § 202.12 by revising paragraphs (c)(1) and (c)(3)(ii)(B) to read as follows:

§ 202.12 Restored copyrights.

* * * * *

(c) *Registration*—(1) *General.* Application, deposit, and filing fee for registration of a claim in a restored work under Section 104A, as amended, may be submitted to the U.S. Copyright Office on or after January 1, 1996. The submission may be a completely electronic submission, with all required elements transmitted to the Office in electronic form; or, the submission may be partially electronic with the application form and fee submitted electronically and the deposit materials sent in physically tangible format(s). If all elements are submitted in physically tangible form, i.e., a completed, printed application form, physically tangible deposit copies/materials, and the appropriate filing fee in check, money order, or deposit account charge, all elements must be placed in the same package and sent to the address specified in § 201.1 of this chapter.

* * * * *

(3) * * *

(ii) * * *

(B) *U.S. Copyright Office Deposit Account.* The U.S. Copyright Office maintains a system of Deposit Accounts for the convenience of those who frequently use its services. The system allows an individual or firm to establish a Deposit Account in the U.S. Copyright Office and to make advance deposits into that account. Deposit Account holders can charge copyright fees against the balance in their accounts instead of sending separate remittances with each request for service. For information on Deposit Accounts, visit the U.S. Copyright Office Web site or write to the address specified in § 201.1 of this chapter and request a copy of Circular 5.

* * * * *

■ 20. Amend § 202.16 by revising paragraph (c)(11) to read as follows:

§ 202.16 Preregistration of copyrights.

* * * * *

(c) * * *

(11) *Certification of preregistration.* A certified copy of the official notification may be obtained in physical form from the Records Research and Certification Section of the Information and Records Division at the address specified in § 201.1 of this chapter.

* * * * *

■ 21. Amend § 202.17 by revising paragraph (g)(1) to read as follows:

§ 202.17 Renewals.

* * * * *

(g) *Application for renewal registration for a work registered in its original 28-year term.* (1) Each application for renewal registration shall be submitted on Form RE. All forms are available free of charge via the Internet by accessing the U.S. Copyright Office homepage at http://www.copyright.gov. Copies of Form RE are also available free upon Request. Requests should be mailed to the address specified in § 201.1 of this chapter.

* * * * *

Dated: July 11, 2013.

Maria A. Pallante,

Register of Copyrights.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 2013–17163 Filed 7–17–13; 8:45 am]

BILLING CODE 1410–30–P

POSTAL REGULATORY COMMISSION

39 CFR Parts 3001 and 3025

[Order No. 1171; Docket No. RM2011–13]

Appeals of Post Office Closings

Correction

In rule document 2012–02931, appearing on pages 6676–6681 in the issue of Thursday, February 9, 2012, make the following correction:

§ 3025.3 Notice by the Postal Service. [Corrected]

On page 6680, in the first column, on the thirteenth line from the bottom, the entry titled ''§ 3025.3 Notice by the Postal Service'' should have appeared in bold print, as a section heading, and is corrected to read as set forth below:

§ 3025.3 Notice by the Postal Service.

[FR Doc. C1–2012–02931 Filed 7–17–13; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[EPA–HQ–OEI–2011–0979; FRL–9825–8]

RIN 2025–AA36

Community Right-to-Know; Adoption of 2012 North American Industry Classification System (NAICS) Codes for Toxics Release Inventory (TRI) Reporting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on updates to the list of North American Industry Classification System (NAICS) codes subject to reporting under the Toxics Release Inventory (TRI) to reflect the Office of Management and Budget (OMB) 2012 NAICS revision. Facilities would be required to use 2012 NAICS codes when reporting to TRI beginning with TRI reporting forms that are due on July 1, 2014, covering releases and other waste management quantities for the 2013 calendar year. In the ''Proposed Rules'' section of today's **Federal Register**, we are simultaneously publishing the 2012 OMB NAICS revisions for TRI Reporting as a proposed rule. If we receive no adverse comment, this direct final rule will become effective as specified herein, and we will withdraw the proposed rule. If, however, we do receive adverse comments in response to this direct final rule or the proposed

rule, then we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. In that case, we would address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

DATES: This rule is effective on October 16, 2013 without further notice, unless EPA receives adverse comment by August 19, 2013. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OEI–2011–0979, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: oei.docket@epa.gov*
- *Fax:* (202) 566–0715
- *Mail:* OEI Docket, Environmental Protection Agency, Mailcode 2822T, 1200 Pennsylvania Ave. NW., Washington, DC, 20460
- *Hand Delivery:* EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC, 20460. Such deliveries are only accepted during the Docket'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–OEI–2011–0979. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information for which 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 EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov*, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters or any form of encryption and must be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information for which disclosure is restricted by statute. Certain other materials, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the OEI Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The Public Reading Room is open Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

FOR FURTHER INFORMATION CONTACT: Judith Kendall, Toxics Release Inventory Program Division, Mailcode 2844T, OEI, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Ave. NW., Washington, DC 20460; Telephone: (202) 566–0750; Fax: (202) 566–0715; email: *kendall.judith@epa.gov.* For general information on TRI, contact the Emergency Planning and Community Right-to-Know Hotline at (800) 424–9346 or (703) 412–9810, TDD (800) 553–7672, *http://www.epa.gov/epaoswer/hotline/.*

SUPPLEMENTARY INFORMATION:

I. Why is EPA using a direct final rule?

EPA is publishing this rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. EPA is proposing to update the list of North American Industry Classification System (NAICS) codes subject to reporting under the Toxics Release Inventory (TRI) to reflect the Office of Management and Budget (OMB) final 2012 NAICS revision (75 FR 26856 and 76 FR 51240). However, as explained in the SUMMARY section of this document, in the ''Proposed Rules'' section of today's **Federal Register**, we are simultaneously publishing a separate document that will serve as the proposed rule to adopt 2012 NAICS Codes for TRI Reporting if adverse comments are received on this direct final rule.

II. Does this action apply to me?

Entities that may be affected by this action are those facilities that have 10 or more full-time employees or the equivalent 20,000 hours per year that manufacture, process, or otherwise use toxic chemicals listed on the TRI, and that are required under section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) or section 6607 of the Pollution Prevention Act (PPA) to report annually to EPA and States or Tribes their environmental releases or other waste management quantities of covered chemicals. (A rule was published on April 19, 2012 (77 FR 23409), requiring facilities located in Indian country to report to the appropriate tribal government official and EPA instead of to the state and EPA.) Under Executive Order 13423 (January 24, 2007), published in the **Federal Register** on January 26, 2007 (72 FR 3919), all federal facilities are required to comply with the provisions set forth in Section 313 of EPCRA and section 6607 of the PPA. On March 29, 2007, the White House Council on Environmental Quality (CEQ) issued *Instructions for Implementing Executive Order 13423,* including annual reporting to the TRI program. Notice of availability of those implementing instructions was published in the **Federal Register** on June 18, 2007 (72 FR 33504).

To determine whether your facility is affected by this action, you should carefully examine the applicability criteria in Part 372 of Title 40 of the Code of Federal Regulations. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

III. What should I consider as I prepare my comments for EPA?

A. *Submitting CBI.* If you wish to claim information submitted in a comment to be CBI, it will be handled in accordance with procedures set forth in 40 CFR part 2, subpart B. If you do not assert a confidentiality claim at the time of submission, the information may

be made available to the public by EPA without further notice. See 40 CFR 2.203, 41 FR 36902, September 1, 1976. Do not submit this information to EPA through *www.regulations.gov* or email. Clearly mark the specific information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

B. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

IV. What is EPA's statutory authority for taking this action?

EPA is taking this action under sections 313(g)(1) and 328 of EPCRA, 42 U.S.C. 11023(g)(1) and 11048. EPCRA is also referred to as Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA) (Pub. L. 99–499). In general, section 313 of EPCRA requires owners and operators of covered facilities in specified Standard Industrial Classification (SIC) codes that manufacture, process, or otherwise use a listed toxic chemical in amounts above specified threshold levels to report certain facility specific information about such chemicals, including the annual releases and other waste management quantities. Section 313(g)(1) of EPCRA requires EPA to publish a uniform toxic chemical release form for these reporting purposes, and it also prescribes, in general terms, the types of information that must be submitted on the form. Section 313(g)(1)(A) requires owners and operators of facilities that are subject to section 313 requirements to report the principal business activities at the facilities. Congress also granted EPA broad rulemaking authority to allow the Agency to fully implement the statute. EPCRA section 328 states that: ''The Administrator may prescribe such regulations as may be necessary to carry out this chapter.'' 42 U.S.C. 11048.

Consistent with these authorities, on June 6, 2006, EPA amended 40 CFR Part 372 to include the 2002 NAICS codes that correspond to the SIC codes that are currently subject to section 313 of EPCRA and section 6607 of the PPA (71 FR 32464). On June 9, 2008 (73 FR 32466), EPA amended 40 CFR Part 372 to include the 2007 NAICS codes that correspond to the SIC codes that are currently subject to section 313 of EPCRA and section 6607 of the PPA. This direct final action will amend 40 CFR Part 372 to include OMB's revised NAICS codes for 2012.

Owners and operators of facilities that are subject to section 313 would need to use 2012 NAICS codes when identifying their principal business activities beginning with TRI reporting forms that are due on July 1, 2014, covering releases and other waste management quantities at the facility for the 2013 calendar year.

V. Background Information

What is the general background for this action?

EPA promulgated a final TRI NAICS rule on June 6, 2006, to amend its regulations for TRI, found at 40 CFR Part 372, to include NAICS codes in addition to SIC codes. The list of TRI NAICS codes that appeared in the final rule was developed from the OMB 2002 NAICS revision. EPA updated the list of TRI NAICS codes in 2008 (73 FR 32466), to incorporate changes to the TRI NAICS codes resulting from the OMB 2007 NAICS revision.

The Office of Management and Budget (OMB) revises North American Industry Classification Codes every five years. An OMB **Federal Register** notice published on May 12, 2010 (75 FR 26856), announced updated NAICS codes for 2012, and a second OMB **Federal Register** notice published on Aug. 17, 2011 (76 FR 51240), finalized and further modified the NAICS codes for 2012.

VI. This Action

A. What would this action do?

EPA will amend 40 CFR Part 372 to include 2012 NAICS codes for TRI reporting that accurately reflect the universe of covered facilities under section 313 of EPCRA and section 6607 of the PPA.

B. Will this action change the universe of facilities that are currently required to report to EPA and the States?

Today's action of updating the list of NAICS codes to reflect the 2012 OMB NAICS revision will not change the universe of facilities that are currently required to report to EPA and the States.

C. How will section 313 reporting requirements change as a result of this direct final rule?

TRI reporting requirements will not change as a result of this direct final rule. This rule will simply revise the NAICS codes to reflect the OMB NAICS 2012 revision.

VII. Which TRI-covered NAICS codes have been modified under this direct final rule?

The Office of Management and Budget (OMB) revises North American Industry Classification System Codes every five years. An OMB **Federal Register** notice published on May 12, 2010 (75 FR 26856), announced updated NAICS codes for 2012, and a second OMB **Federal Register** notice published on Aug. 17, 2011 (76 FR 51240), finalized and further modified the NAICS codes for 2012. All facilities that are currently required to report to TRI will still be required to report, and facilities that are not currently required to file TRI reports to the Agency will not be required to do so. However, due to the 2012 NAICS modifications, some facilities will need to modify their NAICS codes as outlined in the table below. This table reflects only the 2007 TRI NAICS reporting codes that were revised in 2012.

REVISED TRI 2012 REPORTING CODES

2007 NAICS Code	2007 NAICS and U.S. description	2012 NAICS Code	2012 NAICS description
221119	Other Electric Power Generation.	221118	Other Electric Power Generation.
311222	Soybean Processing.	311224	Soybean and Other Oilseed Processing.
311223	Other Oilseed Processing.		
311311	Sugarcane Mills.	311314	Cane Sugar Manufacturing.
311312	Cane Sugar Refining.		
311320	Chocolate and Confectionery Manufacturing from Cacao Beans.	311351	Chocolate and Confectionery Manufacturing from Cacao Beans.
311330	Confectionery Manufacturing from Purchased Chocolate.	311352	Confectionery Manufacturing from Purchased Chocolate.
311711	Seafood Canning.	311710	Seafood Product Preparation and Packaging.
311712	Fresh and Frozen Seafood Processing.		
311822	Flour Mixes and Dough Manufacturing from Purchased Flour.	311824	Dry Pasta, Dough, and Flour Mixes Manufacturing from Purchased Flour.
311823	Dry Pasta Manufacturing.		
311710	Tobacco Stemming and Redrying.	312230	Tobacco Manufacturing.
312221	Cigarette Manufacturing.		
312229	Other Tobacco Product Manufacturing		
313111	Yarn Spinning Mills.	313110	Fiber, Yarn, and Thread Mills.
313112	Yarn Texturizing, Throwing, and Twisting Mills.		
313113	Thread Mills		
313221	Narrow Fabric Mills.	313220	Narow Fabric Mills and Schiffli Machine.
313222	Schiffli Machine Embroidery.		
313241	Weft Knit Fabric Mills.	313240	Knit Fabric Mills.
313249	Other Knit Fabric and Lace Mills.		
313311	Broadwoven Fabric Finishing Mills.	313310	Textile and Fabric Finishing Mills.
313312	Textile and Fabric Finishing (except Broadwoven Fabric) Mills.		
314121	Curtain and Drapery Mills.	314120	Curtain and Linen Mills.
314129	Other Household Textile Product Mills.		
314911	Textile Bag Mills.	314910	Textile Bag and Canvas Mills.
314912	Canvas and Related Product Mills.		
315191	Rope, Cordage, and Twine Mills.	314994	Rope, Cordage, Twine, tire Cord, and Tire Fabric Mills.
315192	Tire Cord and Tire Fabric Mills		
315111	Sheer Hosiery Mills.	315110	Hosiery and Sock Mills.
315119	Other Hosiery and Sock Mills		
315191	Outwear Knitting Mills.	315190	Other Apparel Knitting Mills.
315192	Underwear and Nightwear Knitting Mills.		
315211	Men's and Boys' Cut and Sew Apparel Contractors.	315210	Cut and Sew Apparel Contractors.
315212	Women's, Girls', and Infants' Cut and Sew Apparel Contractors		
315221	Men's and Boys' Cut and Sew Underwear and Nightwear Manufacturing.	315220	Men's and Boys' Cut and Sew Apparel Manufacturing.
315222	Men's and Boys' Cut and Sew Suit, Coat, and Overcoat Manufacturing.		
315223	Men's and Boys' Cut and Sew Shirt (except Work Shirt) Manufacturing.		
315224	Men's and Boys' Cut and Sew Trouser, Slack, and Jean Manufacturing.		
315225	Men's and Boys' Cut and Sew Work Clothing Manufacturing.		
315228	Men's and Boys' Cut and Sew Other Outerwear Manufacturing.		
315231	Women's and Girls' Cut and Sew Lingerie, Loungewear, and Nightwear Manufacturing.	315240	Women's, Girls', and Infants' Cut and Sew Apparel Manufacturing.
315232	Women's and Girls' Cut and Sew Blouse and Shirt Manufacturing.		
315233	Women's and Girls' Cut and Sew Dress Manufacturing.		
315234	Women's and Girls' Cut and Sew Suit, Coat, Tailored Jacket, and Skirt Manufacturing.		
315239	Women's and Girls' Cut and Sew Other Outerwear Manufacturing.		
315291	Infants' Cut and Sew Apparel Manufacturing.		
315292	Fur and Leather Apparel Manufacturing.	315280	Other Cut and Sew Apparel Manufacturing.
315299	All Other Cut and Sew Apparel Manufacturing.		
315991	Hat, Cap, and Millinery Manufacturing.	315990	Apparel Accessories and Other Apparel Manufacturing.
315992	Glove and Mitten Manufacturing.		
315993	Men's and Boys' Neckwear Manufacturing.		
315999	Other Apparel Accessories and Other Apparel Manufacturing.		

REVISED TRI 2012 REPORTING CODES—Continued

2007 NAICS Code	2007 NAICS and U.S. description	2012 NAICS Code	2012 NAICS description
316211	Rubber and Plastics Footwear Manufacturing.	316210	Footwear Manufacturing.
316212	House Slipper Manufacturing.		
316213	Men's Footwear (except Athletic) Manufacturing.		
316214	Women's Footwear (except Athletic) Manufacturing.		
316219	Other Footwear Manufacturing.		
316991	Luggage Manufacturing.	316998	All Other Leather Good and Allied Product Manufacturing.
316993	Personal Leather Good (except Women's Handbag and Purse) Manufacturing.		
316999	All Other Leather Good and Allied Product Manufacturing.		
322213	Setup Paperboard Box Manufacturing.	322219	Other Paperboard Container Manufacturing.
322214	Fiber Can, Tube, Drum, and Similar Products Manufacturing.		
322215	Nonfolding Sanitary Food Container Manufacturing.		
322221	Coated and Laminated Packaging.	322220	Paper Bag and Coated and Treated Paper Manufacturing.
322222	Coated and Laminated Paper Manufacturing.		
322223	Coated Paper Bag and Pouch Manufacturing.		
322224	Uncoated Paper and Multiwall Bag Manufacturing.		
322225	Laminated Aluminum Foil Manufacturing for Flexible Packaging Uses.		
322226	Surface-Coated Paperboard Manufacturing.		
322231	Die-Cut Paper and Paperboard Office Supplies Manufacturing.	322230	Stationery Product Manufacturing.
322232	Envelope Manufacturing.		
322233	Stationery, Tablet, and Related Product Manufacturing.		
323110	Commercial Lithographic Printing.	323111	Commercial Printing (except Screen and Books).
323111	Commercial Gravure Printing).		
323112	Commercial Flexographic Printing.		
323114	Quick Printing.		
323115	Digital Printing.		
323116	Manifold Business Forms Printing.		
323118	Blankbook, Looseleaf Binders, and Devices Manufacturing.		
323119	Other Commercial Printing.		
323121	Tradebinding and Related Work.	323120	Support Activities for Printing.
323122	Prepress Services.		
325131	Inorganic Dye and Pigment Manufacturing.	325130	Synthetic Dye and Pigment Manufacturing.
325132	Synthetic Organic Dye and Pigment Manufacturing.		
325181	Alkalies and Chlorine Manufacturing.	325180	Other Basic Inorganic Chemical Manufacturing.
325182	Carbon Black Manufacturing.		
325188	All Other Basic Inorganic Chemical Manufacturing.		
325191	Gum and Wood Chemical Manufacturing.	325194	Cyclic Crude, Intermediate, and Gum and Wood Chemical Manufacturing.
325192	Cyclic Crude and Intermediate Manufacturing.		
325221	Cellulosic Organic Fiber Manufacturing.	325220	Artificial and Synthetic Fibers and Filaments Manufacturing.
325222	Noncellulosic Organic Fiber Manufacturing.		
326192	Resilient Floor Covering Manufacturing.	326199	All Other Plastics Product Manufacturing
327111	Vitreous China Plumbing Fixture and China and Earthenware Bathroom Accessories Manufacturing.	327110	Pottery, Ceramics, and Plumbing Fixture Manufacturing.
327112	Vitreous China, Fine Earthenware, and Other Pottery Product Manufacturing.		
327113	Porcelain Electrical Supply Manufacturing.		
327121	Brick and Structural Clay Tile Manufacturing.	327120	Clay Building Material and Refractories Manufacturing.
327122	Ceramic Wall and Floor Tile Manufacturing.		
327123	Other Structural Clay Product Manufacturing.		
327124	Clay Refractory Manufacturing.		
327125	Nonclay Refractory Manufacturing.		
331111	Iron and Steel Mills.	331110	Iron and Steel Mills and Ferroalloy Manufacturing.
331112	Electrometallurgical Ferroalloy Product Manufacturing.		
331311	Alumina Refining.	331313	Alumina Refining and Primary Aluminum Production.
331312	Primary Aluminum Production.		
331316	Aluminum Extruded Product Manufacturing.	331318	Other Aluminum Rolling, Drawing, and Extruding.
331319	Other Aluminum Rolling and Drawing.		
331411	Primary Smelting and Refining of Copper.	331410	Nonferrous Metal (except Aluminum) Smelting and Refining.
331419	Primary Smelting and Refining of Nonferrous Metal (except Copper and Aluminum).		
331421	Copper Rolling, Drawing, and Extruding.	331420	Copper Rolling, Drawing, Extruding, and Alloying.

REVISED TRI 2012 REPORTING CODES—Continued

2007 NAICS Code	2007 NAICS and U.S. description	2012 NAICS Code	2012 NAICS description
331422	Copper Wire (except Mechanical) Drawing.		
331423	Secondary Smelting, Refining, and Alloying of Copper.		
331521	Aluminum Die-Casting Foundries.	331523	Nonferrous Metal Die-Casting Foundries.
331522	Nonferrous (except Aluminum) Die-Casting Foundries.		
331525	Copper Foundries (except Die-Casting).	331529	Other Nonferrous Metal Foundries (except Die-Casting).
331528	Other Nonferrous Foundries (except Die-Casting).		
332115	Crown and Closure Manufacturig.	332119	Metal Crown, Closure, and Other Metal Stamping (except Automotive).
332116	Metal Stamping.		
332211	Cutlery and Flatware (except Precious) Manufacturing.	332215	Metal Kitchen Cookware, Utensil, Cutlery, and Flatware (except Precious) Manufacturing.
332214	Kitchen Utensil, Pot, and Pan Manufacturing.		
332212	Hand and Edge Tool Manufacturing.	332216	Saw Blade and Handtool Manufacturing.
332213	Saw Blade and Handsaw Manufacturing.		
332611	Spring (Heavy Gauge) Manufacturing.	332613	Spring Manufacturing.
332612	Spring (Light Gauge) Manufacturing	332613	Spring Manufacturing.
332994	Small Arms Manufacturing	332994	Small Arms, Ordnance, and Ordnance Accessories Manufacturing.
332995	Other Ordnance and Accessories Manufacturing		
332997	Industrial Pattern Manufacturing	332999	All Other Miscellaneous Fabricated Metal Product Manufacturing.
332998	Enameled Iron and Metal Sanitary Ware Manufacturing.		
332999	All Other Miscellaneous Fabricated Metal Product Manufacturing.		
333210	Sawmill and Woodworking Machinery Manufacturing pt	333243	Sawmill, Woodworking, and Paper Machinery Manufacturing.
333291	Paper Industry Machinery Manufacturing		
333220	Plastics and Rubber Industry Machinery Manufacturing	333249	Other Industrial Machinery Manufacturing.
333292	Textile Machinery Manufacturing		
333298	All Other Industrial Machinery Manufacturing		
333293	Printing Machinery and Equipment Manufacturing	333244	Printing Machinery and Equipment Manufacturing.
333294	Food Product Machinery Manufacturing	333241	Food Product Machinery Manufacturing.
333295	Semiconductor Machinery Manufacturing	333242	Semiconductor Machinery Manufacturing.
333311	Automatic Vending Machine Manufacturing	333318	Other Commercial and Service Industry Machinery Manufacturing.
333312	Commercial Laundry, Drycleaning, and Pressing Machine Manufacturing		
333313	Office Machinery Manufacturing		
333319	Other Commercial and Service Industry Machinery Manufacturing		
333315	Photographic and Photocopying Equipment Manufacturing	333316	Photographic and Photocopying Equipment Manufacturing.
334119	Other Computer Peripheral Equipment Manufacturing *digital camera manufacturing*		
333411	Air Purification Equipment Manufacturing	333413	Industrial and Commercial Fan and Blower and Air Purification Equipment Manufacturing.
333412	Industrial and Commercial Fan and Blower Manufacturing		
333512	Machine Tool (Metal Cutting Types) Manufacturing.	333517	Machine Tool Manufacturing.
333513	Machine Tool (Metal Forming Types) Manufacturing		
333516	Rolling Mill Machinery and Equipment Manufacturing	333519	Rolling Mill and Other Metalworking Machinery Manufacturing.
333518	Other Metalworking Machinery Manufacturing.		
334113	Computer Terminal Manufacturing	334118	Computer Terminal and Other Computer Peripheral Equipment Manufacturing.
334119	Other Computer Peripheral Equipment Manufacturing *except digital camera manufacturing*	334118	Computer Terminal and Other Computer Peripheral Equipment Manufacturing.
334411	Electron Tube Manufacturing	334419	Other Electronic Component Manufacturing.
334414	Electronic Capacitor Manufacturing	334416	Capacitor, Resistor, Coil, Transformer, and Other Inductor Manufacturing.
334416	Electronic Coil, Transformer, and Other Inductor Manufacturing		
334518	Watch, Clock, and Part Manufacturing	334519	Other Measuring and Controlling Device Manufacturing.
334611	Software Reproducing	334614	Software and Other Prerecorded Compact Disc, Tape, and Record Reproducing.
334612	Prerecorded Compact Disc (except Software), Tape, and Record Reproducing		

REVISED TRI 2012 REPORTING CODES—Continued

2007 NAICS Code	2007 NAICS and U.S. description	2012 NAICS Code	2012 NAICS description
335211	Electric Housewares and Household Fan Manufacturing	335210	Small Electrical Appliance Manufacturing.
335212	Household Vacuum Cleaner Manufacture		
336311	Carburetor, Piston, Piston Ring, and Valve Manufacturing	336310	Motor Vehicle Gasoline Engine Parts Manufacturing.
336312	Gasoline Engine and Engine Parts Manufacturing		
336321	Vehicular Lighting Equipment Manufacturing	336320	Motor Vehicle Electrical and Electronic Equipment Manufacturing.
336322	Other Motor Vehicle Electrical and Electronic Equipment Manufacturing.		
336391	Motor Vehicle Air-Conditioning Manufacturing	336390	Other Motor Vehicle Parts Manufacturing.
336399	All Other Motor Vehicle Parts Manufacturing		
337129	Wood Television, Radio, and Sewing Machine Cabinet Manufacturing	321999	All Other Miscellaneous Wood Product Manufacturing.
339911	Jewelry (except Costume) Manufacturing	339910	Jewelry and Silverware Manufacturing.
339912	Silverware and Hollowware Manufacturing		
339913	Jewelers' Material and Lapidary Work Manufacturing		
339914	Costume Jewelry and Novelty Manufacturing		
339931	Doll and Stuffed Toy Manufacturing	339930	Doll, Toy, and Game Manufacturing.
339932	Game, Toy, and Children's Vehicle Manufacturing		
339941	Pen and Mechanical Pencil Manufacturing	339940	Office Supplies (except Paper) Manufacturing.
339942	Lead Pencil and Art Good Manufacturing		
3339943	Making Device Manufacturing		
339944	Carbon Paper and Inked Ribbon Manufacturing		

VIII. What additional reporting burden is associated with this action?

This direct final rule adds no new reporting requirements, and there will be no net increase in respondent burden. Facilities were first required to use NAICS codes when reporting their toxic chemical releases and other waste management activities to EPA beginning in 2007 for reporting year 2006. Covered facilities should refer to the updated NAICS code list in 40 CFR 372.23 when reporting. Crosswalk tables between 2007 NAICS codes and 2012 NAICS codes can be found on the Internet at *http://www.census.gov/epcd/www/naics.html.*

IX. Regulatory Assessment Requirements

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

This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

EPA analyzed the potential costs and benefits associated with this action, and determined that since this rule adds no new reporting requirements, there will be no net increase in respondent burden or other economic impacts.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. Facilities that are affected by the rule are already required to report their industrial classification codes on the approved reporting forms under section 313 of EPCRA and 6607 of the PPA. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in 40 CFR part 372 under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* and has assigned OMB control number 2025–0009 (EPA ICR No. 1363–21) for Form R and Form A. A copy of the OMB approved Information Collection Requests (ICRs) may be obtained from Susan Auby, Collection Strategies Division; U.S. Environmental Protection Agency (2822T); 1200 Pennsylvania Ave. NW., Washington, DC 20460 or by calling (202) 566–1672. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. The Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this rule on small entities, section 601 of the RFA, 5 U.S.C. 601, defines ''small entity'' as: (1) A business that is classified as a ''small business'' by the Small Business Administration at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; or (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

This rule adds no new reporting requirements, and there will be no net increase in respondent burden. This rule only updates the NAICS codes already reported by respondents.

After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This final rule will not impose any requirements on small entities.

D. Unfunded Mandates Reform Act

This rule does not contain a Federal mandate that may result in expenditures of $100 million or more to State, local, and tribal governments, in the aggregate, or to the private sector in any one year. This rule adds no new reporting requirements and there will be no net

increase in respondent burden. Thus, this rule is not subject to the requirements of sections 202 or 205 of UMRA.

This rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This EPA action contains no new reporting requirements.

E. Executive Order 13132, Federalism

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This action only updates the NAICS reporting codes used by TRI reporting facilities on chemical reporting forms. Thus, Executive Order 13132 does not apply to this rule.

F. Executive Order 13175

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000), because this action only updates the NAICS reporting codes for TRI reporting purposes. Thus, Executive Order 13175 does not apply to this rule.

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

EPA interprets EO 13045 (62 FR 19885, April 23, 1997), as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

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

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

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

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because the rule addresses information collection and does not affect the level of protection provided to human health or the environment. This rule simply updates the NAICS reporting codes for TRI reporting purposes.

K. Congressional Review Act

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

This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This final rule is effective 90 days from the date of publication in the **Federal Register**. TRI facilities must use 2012 NAICS codes when reporting to TRI beginning with reporting forms that are due by July 1, 2014.

List of Subjects in 40 CFR Part 372

Environmental protection, Community right-to-know, Reporting and recordkeeping requirements, Toxic chemicals.

Dated: July 9, 2013.

Bob Perciasepe,

Acting Administrator.

For the reasons set out in the preamble, title 40 Chapter I of the Code of Federal Regulations is amended as follows:

PART 372—[AMENDED]

■ 1. The authority citation for part 372 continues to read as follows:

Authority: 42 U.S.C. 11023 and 11048.

■ 2. Amend § 372.22 by revising the introductory text for paragraph (b) to read as follows:

§ 372.22 Covered facilities for toxic chemical release reporting.

* * * * *

(b) The facility is in a Standard Industrial Classification (SIC) (as in effect on January 1, 1987) major group or industry code listed in § 372.23(a), for which the corresponding North American Industry Classification System (NAICS) (as in effect on January 1, 2012, for reporting year 2013 and thereafter) subsector and industry codes are listed in §§ 372.23(b) and 372.23(c) by virtue of the fact that it meets one of the following criteria:

* * * * *

■ 3. Amend § 372.23 by revising paragraphs (b) and (c) to read as follows:

§ 372.23 SIC and NAICS codes to which this Part applies.

* * * * *

(b) NAICS codes that correspond to SIC codes 20 through 39.

Subsector code or industry code	Exceptions and/or limitations
311—Food Manufacturing	Except 311119—Exception is limited to facilities primarily engaged in Custom Grain Grinding for Animal Feed (previously classified under SIC 0723, Crop Preparation Services for Market, Except Cotton Ginning); Except 311340—Exception is limited to facilities primarily engaged in the retail sale of candy, nuts, popcorn and other confections not for immediate consumption made on the premises (previously classified under SIC 5441, Candy, Nut, and Confectionery Stores); Except 311352—Exception is limited to facilities primarily engaged in the retail sale of candy, nuts, popcorn and other confections not for immediate consumption made on the premises (previously classified under SIC 5441, Candy, Nut, and Confectionery Stores); Except 311611—Exception is limited to facilities primarily engaged in Custom Slaughtering for individuals (previously classified under SIC 0751, Livestock Services, Except Veterinary, Slaughtering, custom: for individuals); Except 311612—Exception is limited to facilities primarily engaged in the cutting up and resale of purchased fresh carcasses for the trade (including boxed beef), and in the wholesale distribution of fresh, cured, and processed (but not canned) meats and lard (previously classified under SIC 5147, Meats and Meat Products); Except 311811—Retail Bakeries (previously classified under SIC 5461, Retail Bakeries);
312—Beverage and Tobacco Product Manufacturing.	Except 312112—Exception is limited to facilities primarily engaged in bottling mineral or spring water (previously classified under SIC 5149, Groceries and Related Products, NEC); Except 312230—Exception is limited to facilities primarily engaged in providing Tobacco Sheeting Services (previously classified under SIC 7389, Business Services, NEC);
313—Textile Mills	Except 313310—Exception is limited to facilities primarily engaged in converting broadwoven piece goods and broadwoven textiles, (previously classified under SIC 5131, Piece Goods Notions, and Other Dry Goods, broadwoven and non-broadwoven piece good converters); and facilities primarily engaged in converting narrow woven Textiles and narrow woven piece goods, (previously classified under SIC 5131, Piece Good Notions, and Other Dry Goods, converters, except broadwoven fabric); and facilities primarily engaged in sponging fabric for tailors and dressmakers (previously classified under SIC 7389, Business Services, NEC (Sponging fabric for tailors and dressmakers));
314—Textile Product Mills	Except 314120—Exception is limited to facilities primarily engaged in making Custom drapery and in making Custom slipcovers for retail sale (previously classified under SIC 5714, Drapery, Curtain, and Upholstery Stores); Except 314999—Exception is limited to facilities primarily engaged in Binding carpets and rugs for the trade, Carpet cutting and binding, and Embroidering on textile products (except apparel) for the trade (previously classified under SIC 7389, Business Services Not Elsewhere Classified, Embroidering of advertising on shirts and Rug binding for the trade);
315—Apparel Manufacturing	Except 315220—Exception is limited to custom tailors primarily engaged in making and selling men's and boys' suits, men's and boys' dress shirts, and bridal dresses or gowns or women's, misses' and girls' dresses, cut and sewn from purchased fabric (previously classified under SIC 5699, Miscellaneous Apparel and Accessory Stores (custom tailors)) and to custom tailors primarily engaged in making and selling bridal dresses or gowns, or women's, misses' and girls' dresses cut and sewn from purchased fabric (except apparel contractors) (custom dressmakers) (previously classified under SIC Code 5699, Miscellaneous Apparel and Accessory Stores);
316—Leather and Allied Product Manufacturing.	
321—Wood Product Manufacturing.	
322—Paper Manufacturing.	
323—Printing and Related Support Activities	Except 323111—Exception is limited to facilities primarily engaged in reproducing text, drawings, plans, maps, or other copy, by blueprinting, photocopying, mimeographing, or other methods of duplication other than printing or microfilming (i.e., instant printing) (previously classified under SIC 7334, Photocopying and Duplicating Services, (instant printing));
324—Petroleum and Coal Products Manufacturing.	
325—Chemical Manufacturing	Except 325998—Exception is limited to facilities primarily engaged in Aerosol can filling on a job order or contract basis (previously classified under SIC 7389, Business Services, NEC (aerosol packaging));
326—Plastics and Rubber Products Manufacturing.	Except 326212—Tire Retreading, (previously classified under SIC 7534, Tire Retreading and Repair Shops (rebuilding));
327—Nonmetallic Mineral Product Manufacturing.	Except 327110—Exception is limited to facilities primarily engaged in manufacturing and selling pottery on site (previously classified under SIC 5719, Miscellaneous Homefurnishing Stores)
331—Primary Metal Manufacturing.	
332—Fabricated Metal Product Manufacturing.	
333—Machinery Manufacturing.	
334—Computer and Electronic Product Manufacturing.	Except 334614—Exception is limited to facilities primarily engaged in Software Reproducing (previously classified under SIC 7372, Prepackaged Software, (reproduction of software)) and to facilities primarily engaged in mass reproducing pre-recorded Video cassettes, and mass reproducing Video tape or disk (previously classified under SIC 7819, Services Allied to Motion Picture Production (reproduction of Video));
335—Electrical Equipment, Appliance, and Component Manufacturing.	Except 335312—Exception is limited to facilities primarily engaged in armature rewinding on a factory basis (previously classified under SIC 7694 (Armature Rewinding Shops (remanufacturing));

Subsector code or industry code	Exceptions and/or limitations
336—Transportation Equipment Manufacturing.	
337—Furniture and Related Product Manufacturing.	Except 337110—Exception is limited to facilities primarily engaged in the retail sale of household furniture and that manufacture custom wood kitchen cabinets and counter tops (previously classified under SIC 5712, Furniture Stores (custom wood cabinets));
	Except 337121—Exception is limited to facilities primarily engaged in the retail sale of household furniture and that manufacture custom made upholstered household furniture (previously classified under SIC 5712, Furniture Stores (upholstered, custom made furniture));
	Except 337122—Exception is limited to facilities primarily engaged in the retail sale of household furniture and that manufacture nonupholstered, household type, custom wood furniture (previously classified under SIC 5712, Furniture Stores (custom made wood nonupholstered household furniture except cabinets));
339—Miscellaneous Manufacturing	Except 339113—Exception is limited to facilities primarily engaged in manufacturing orthopedic devices to prescription in a retail environment (previously classified under SIC 5999, Miscellaneous Retail Stores, NEC);
	Except 339115—Exception is limited to lens grinding facilities that are primarily engaged in the retail sale of eyeglasses and contact lenses to prescription for individuals (previously classified under SIC 5995, Optical Goods Stores (optical laboratories grinding of lenses to prescription));
	Except 339116—Dental Laboratories (previously classified under SIC 8072, Dental Laboratories);
111998—All Other Miscellaneous Crop Farming	Limited to facilities primarily engaged in reducing maple sap to maple syrup (previously classified under SIC 2099, Food Preparations, NEC, Reducing Maple Sap to Maple Syrup);
113310—Logging.	
211112—Natural Gas Liquid Extraction	Limited to facilities that recover sulfur from natural gas (previously classified under SIC 2819, Industrial Inorganic chemicals, NEC (recovering sulfur from natural gas));
212324—Kaolin and Ball Clay Mining	Limited to facilities operating without a mine or quarry and that are primarily engaged in beneficiating kaolin and clay (previously classified under SIC 3295, Minerals and Earths, Ground or Otherwise Treated (grinding, washing, separating, etc. of minerals in SIC 1455));
212325—Mining	Limited to facilities operating without a mine or quarry and that are primarily engaged in beneficiating clay and ceramic and refractory minerals (previously classified under SIC 3295, Minerals and Earths, Ground or Otherwise Treated (grinding, washing, separating, etc. of minerals in SIC 1459));
212393—Other Chemical and Fertilizer Mineral Mining.	Limited to facilities operating without a mine or quarry and that are primarily engaged in beneficiating chemical or fertilizer mineral raw materials (previously classified under SIC 3295, Minerals and Earths, Ground or Otherwise Treated (grinding, washing, separating, etc. of minerals in SIC 1479));
212399—All Other Nonmetallic Mineral Mining	Limited to facilities operating without a mine or quarry and that are primarily engaged in beneficiating nonmetallic minerals (previously classified under SIC 3295, Minerals and Earths, Ground or Otherwise Treated (grinding, washing, separating, etc. of minerals in SIC 1499));
488390—Other Support Activities for Water Transportation.	Limited to facilities that are primarily engaged in providing routine repair and maintenance of ships and boats from floating drydocks (previously classified under SIC 3731, Shipbuilding and Repairing (floating drydocks not associated with a shipyard));
511110—Newspaper Publishers.	
511120—Periodical Publishers.	
511130—Book Publishers.	
511140—Directory and Mailing List Publishers	Except facilities that are primarily engaged in furnishing services for direct mail advertising including Address list compilers, Address list publishers, Address list publishers and printing combined, Address list publishing , Business directory publishers, Catalog of collections publishers, Catalog of collections publishers and printing combined, Mailing list compilers, Directory compilers, and Mailing list compiling services (previously classified under SIC 7331, Direct Mail Advertising Services (mailing list compilers));
511191—Greeting Card Publishers.	
511199—All Other Publishers.	
512220—Integrated Record Production/Distribution.	
512230—Music Publishers	Except facilities primarily engaged in Music copyright authorizing use, Music copyright buying and licensing, and Music publishers working on their own account (previously classified under SIC 8999, Services, NEC (music publishing));
519130—Internet Publishing and Broadcasting and Web Search Portals.	Limited to facilities primarily engaged in Internet newspaper publishing (previously classified under SIC 2711, Newspapers: Publishing, or Publishing and Printing), Internet periodical publishing (previously classified under SIC 2721, Periodicals: Publishing, or Publishing and Printing), Internet book publishing (previously classified under SIC 2731, Books: Publishing, or Publishing and Printing), Miscellaneous Internet publishing (previously classified under SIC 2741, Miscellaneous Publishing), Internet greeting card publishers (previously classified under SIC 2771, Greeting Cards); Except for facilities primarily engaged in web search portals;

Subsector code or industry code	Exceptions and/or limitations
541712—Research and Development in the Physical, Engineering, and Life Sciences (except Biotechnology).	Limited to facilities that are primarily engaged in Guided missile and space vehicle engine research and development (previously classified under SIC 3764, Guided Missile and Space Vehicle Propulsion Units and Propulsion Unit Parts), and in Guided missile and space vehicle parts (except engines) research and development (previously classified under SIC 3769, Guided Missile and Space Vehicle Parts and Auxiliary Equipment, Not Elsewhere Classified);
811490—Other Personal and Household Goods Repair and Maintenance.	Limited to facilities that are primarily engaged in repairing and servicing pleasure and sail boats without retailing new boats (previously classified under SIC 3732, Boat Building and Repairing (pleasure boat building)).

(c) NAICS codes that correspond to SIC codes other than SIC codes 20 through 39.

Subsector or industry code	Exceptions and/or limitations
212111—Bituminous Coal and Lignite Surface Mining.	
212112—Bituminous Coal and Underground Mining.	
212113—Anthracite Mining.	
212221—Gold Ore Mining.	
212222—Silver Ore Mining.	
212231—Lead Ore and Zinc Ore Mining.	
212234—Copper Ore and Nickel Ore Mining.	
212299—Other Metal Ore Mining.	
221111—Hydroelectric Power Generation	Limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce.
221112—Fossil Fuel Electric Power Generation	Limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce.
221113—Nuclear Electric Power Generation	Limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce.
221118—Other Electric Power Generation	Limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce.
221121—Electric Bulk Power Transmission and Control.	Limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce.
221122—Electric Power Distribution	Limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce.
221330—Steam and Air Conditioning Supply	Limited to facilities engaged in providing combinations of electric, gas, and other services, not elsewhere classified (N.E.C.) (previously classified under SIC 4939, Combination Utility Services Not Elsewhere Classified.)
424690—Other Chemical and Allied Products Merchant Wholesalers.	
424710—Petroleum Bulk Stations and Terminals.	
425110—Business to Business Electronic Markets..	Limited to facilities previously classified in SIC 5169, Chemicals and Allied Products, Not Elsewhere Classified.
425120—Wholesale Trade Agents and Brokers	Limited to facilities previously classified in SIC 5169, Chemicals and Allied Products, Not Elsewhere Classified.
562112—Hazardous Waste Collection	Limited to facilities primarily engaged in solvent recovery services on a contract or fee basis (previously classified under SIC 7389, Business Services, NEC);
562211—Hazardous Waste Treatment and Disposal.	Limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. 6921 *et seq.*
562212—Solid Waste Landfill	Limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. 6921 *et seq.*
562213—Solid Waste Combustors and Incinerators.	Limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. 6921 *et seq.*
562219—Other Nonhazardous Waste Treatment and Disposal.	Limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. 6921 *et seq.*
562920—Materials Recovery Facilities	Limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. 6921 *et seq.*

[FR Doc. 2013–17298 Filed 7–17–13; 8:45 am]

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FEDERAL MARITIME COMMISSION

46 CFR Parts 515, 520, and 532

[Docket No. 11–22]

RIN 3072–AC51

Non-Vessel-Operating Common Carrier Negotiated Rate Arrangements; Tariff Publication Exemption

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission (Commission) revises its rules to impose registration requirements on foreign-based unlicensed non-vessel-operating common carriers and to extend an exemption from certain provisions and requirements of the Shipping Act of 1984 and the Commission regulations to foreign-based unlicensed non-vessel-operating common carriers that agree to negotiated rate arrangements.

DATES: *Effective date:* This Final Rule is effective July 19, 2013.

Compliance date: Foreign-based unlicensed non-vessel-operating common carriers shall comply with the requirements of 46 CFR 515.19 no later than October 17, 2013.

FOR FURTHER INFORMATION CONTACT: Rebecca A. Fenneman, General Counsel, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573–0001, Phone: (202) 523–5740, Email: *generalcounsel@fmc.gov.*

SUPPLEMENTARY INFORMATION:

Background

Under the Commission's current rule at 46 CFR part 532, titled NVOCC Negotiated Rate Arrangements, licensed non-vessel-operating common carriers (NVOCCs) that choose to enter into negotiated rate arrangements (NRAs) are exempted from the tariff rate publication requirements of the Shipping Act of 1984 and certain provisions and requirements of the Commission's regulations. At the time of the promulgation of the rule, the Commission determined to exempt only licensed NVOCCs because of concerns relating to the limited information available to the Commission about foreign-based unlicensed NVOCCs.

On December 5, 2012, however, the Commission determined it could extend the exemption at 46 CFR part 532 to foreign-based unlicensed NVOCCs by implementing new registration and other requirements. A Notice of Proposed Rulemaking (NPRM) was published on February 26, 2013. 78 FR 13011.

Comments

The Commission received six comments: Federazione Nazionale delle Imprese di Spedizioni Internazionali (FEDESPEDI), International Federation of Freight Forwarders Association (FIATA), National Customs Brokers and Forwarders Association of America, Inc. (NCBFAA), Transportation Intermediaries Association (TIA), Unaffiliated Shippers of America (USOA), and UPS Ocean Freight Services, Inc. (UPS).

FEDESPEDI supports the proposed rule and argues that the current rule is discriminatory. FEDESPEDI believes that granting the exemption to foreign-based unlicensed NVOCCs ''will contribute to a level playing field and, at the same time, will reduce operating costs for [its] members, allowing them to concentrate on quality and price, rather th[a]n expending unnecessary time and money on administrative compliance.''

FIATA states that many of its members are NVOCCs. FIATA supports equal treatment of all NVOCCs, so that they are permitted to use the exemption whether or not they are licensed by the Commission. FIATA states that an NVOCC not using the exemption has the expense of maintaining tariff publication with no offsetting benefit to the shipping public. FIATA also states that the Commission has the ability to revoke the exemption for any NVOCC found to be abusing it. Like FEDESPEDI, FIATA believes that the proposed rule ''will resolve the problem of unequal playing fields for foreign-based NVOCCs and their competitors in the United States and will give them the same tools to serve their customers without additional costs.''

NCBFAA supports the proposed rule. NCBFAA states that the extension of the exemption would increase competition by freeing foreign-based unlicensed NVOCCs from the burden of rate tariff publication obligation; that eliminating the costs of rate tariff publication for foreign-based unlicensed NVOCCs will better position them to serve their customers; and that removing the artificial distinction between U.S. and foreign NVOCCs will avoid possible regulatory measures of foreign governments seeking to level the playing field between their nationals and those of the U.S. NCBFAA notes that extending the NRA exemption will not remove any Shipping Act protections available to shippers because the exemption would not disturb or remove prohibitions for false billings, classifications or other unfair or unjust efforts to either obtain transportation at inappropriate rates or to otherwise engage in fraudulent billing practices. NCBFAA believes that the registration and other requirements suggested in the NPRM are reasonable and appropriate as they do not impose any burden on foreign entities that is greater than that currently borne by licensed NVOCCs. In particular, NCBFAA believes that the proposed registration process requiring foreign-based unlicensed NVOCCs to provide basic information about their identity, appoint an agent for service of process, or agree to comply with legitimate document requests is appropriate.

TIA commends the Commission for moving forward with the NPRM. TIA states that the proposed extension will level the playing field for foreign-based unlicensed NVOCCs and their competitors in the U.S. and will give such NVOCCs the same tools to serve their customers without incurring additional cost.

USOA asserts that, as there are many examples of foreign-based NVOCCs ''acting in manners which reflects extortion against [l]icensed US based NVOCCs,'' the Commission should not allow foreign-based unlicensed NVOCCs any exemption from the present requirements of the Shipping Act. USOA states that the NRA should not be available to foreign-based unlicensed NVOCCs ''except if there is a valid bonded tariff on file with FMC.''

Although it appears that UPS does not oppose the extension of NRA to foreign-based unlicensed NVOCCs in general, UPS opposes the requirements in the NPRM for a formal renewal process every three years for such NVOCCs. UPS states that ''[t]his is an unnecessary regulatory burden that clearly will not facilitate Commission regulation or enforcement in any way, and does not otherwise benefit US commerce or shippers.'' UPS claims that because foreign-based NVOCCs are already required to update their information promptly under the proposed section 515.19(f), the three-year renewal requirement is unnecessary, burdensome and should be dropped. Alternatively, UPS suggests that proposed 46 CFR 515.19(d) be revised to allow submission of a certificate, in lieu of a renewal of registration.[1]

[1] UPS suggests that the proposed 46 CFR 515.19(d) be revised by adding to the end the reference ''. . . provided, however, that where applicable, a registered foreign NVOCC may submit in lieu of an updated registration form a certificate signed by a fully-authorized representative reading: '[Name of NVOCC] hereby certifies that all information previously provided to the Commission

Discussion

With the registration and other requirements proposed in the NPRM, the Commission believes that the shipping public will be adequately protected. The NPRM proposed:

- Foreign-based unlicensed NVOCCs must be registered with the Commission.
- Such registrations must be renewed regularly.
- Such registrations may be terminated or suspended for reasons enumerated in the proposed rule.
- All NVOCCs that enter into NRAs are subject to the Commission's inspection and reproduction requests, and must produce the requested NRAs promptly in response to a Commission request. All records produced must be in English or be accompanied by a certified English translation.

USOA's concern that the exemption should be available only to bonded and tariffed NVOCCs is misplaced. Regardless of whether foreign-based unlicensed NVOCCs use the NRA rate tariff publication exemption, foreign-based unlicensed NVOCCs must nevertheless furnish proof of financial responsibility under the Shipping Act (46 U.S.C. 40902(a)) and the Commission's regulation (46 CFR 515.21), and must also publish a tariff[2] as required by the Shipping Act (46 U.S.C. 40501(a)) and the Commission's regulation (46 CFR 520.3).

UPS suggests that the proposed renewal requirement should be replaced by a filing of a certificate confirming that the information previously provided to the Commission continues to be accurate and complete. The Commission is currently working to automate the registration and renewal procedure, which it believes will allow registration and renewal with minimal burden to foreign-based unlicensed NVOCCs.

Although the Commission's discussion of an NRA extension necessitated inclusion of the requirement of registration (and renewal) of foreign-based unlicensed NVOCCs in this rulemaking, the registration and renewal of such NVOCCs is not a condition only for NRA exemption. Even if a foreign-based unlicensed NVOCC does not use the NRA exemption, such an NVOCC must still register with the Commission under the final rule because the Commission believes that keeping updated information not only for foreign-based unlicensed NVOCCs that enter into NRAs, but also for all foreign-based unlicensed NVOCCs is necessary to better protect the shipping public.

The extension of the NRA rule will increase competition among NVOCCs by providing a level playing field to all NVOCCs, and thus will not lead to a substantial reduction in competition. Further, with the additional requirements proposed in the NPRM and included in this final rule, the extension will not be detrimental to commerce.

Dates of Effectiveness and Compliance

This Final Rule will become effective upon its date of publication in the **Federal Register**. Foreign-based unlicensed NVOCCs may file Form FMC–65 as the Final Rule provides. A foreign-based unlicensed NVOCC may enter into NRAs as specified in 46 CFR part 532 upon completion of the required registration.

Mandatory compliance with the registration requirements of 46 CFR 515.19 will be delayed until October 17, 2013 to provide time for foreign-based unlicensed NVOCCs to comply. Lawful operation by foreign-based unlicensed NVOCCs requires compliance by this date.

Statutory Review

In accordance with the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* the Commission submitted burdens of collection of information estimates under this Final Rule to the Office of Management and Budget (OMB). In the NPRM published on February 26, 2013, the Commission requested comments on the burden or any other aspect of the collection of information. The Commission received one such comment and discussed it in this Final Rule. The estimated time to fulfill the collection of information is 5,484 hours per year for part 515 and 5,970 hours per year for part 532. The Commission has received OMB approval for this collection of information pursuant to the PRA. The valid control numbers for this collection of information are 3072–0018 for 46 CFR part 515 and 3072–0071 for 46 CFR part 532.

According to the Small Business Administration's regulation, ''a small business is a business entity organized for profit, with a place of business located in the United States, and which operates primarily within the United States or which makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials or labor.'' 13 CFR 121.105(a)(1). As foreign-based unlicensed NVOCCs have their principal place of business in foreign countries and operate primarily in foreign countries, they are not small businesses as defined by the regulation and, thus, are not small entities under the Regulatory Flexibility Act (RFA). 5 U.S.C. 601–612. Therefore, this rulemaking is not subject to the RFA.

This final rule is not a ''major rule'' under 5 U.S.C. 804(2).

List of Subjects

46 CFR Part 515

Freight, Freight forwarders, Maritime carriers, Reporting and recordkeeping requirements.

46 CFR Part 520

Freight, Intermodal transportation, Maritime carriers, Reporting and recordkeeping requirements.

46 CFR Part 532

Exports, Non-vessel-operating common carriers, Ocean transportation intermediary.

For the reasons stated in the Supplementary Information, the Federal Maritime Commission amends 46 CFR parts 515, 520, and 532 as follows.

PART 515—LICENSING, FINANCIAL RESPONSIBILITY REQUIREMENTS, AND GENERAL DUTIES FOR OCEAN TRANSPORTATION INTERMEDIARIES

■ 1. The authority citation for part 515 continues to read as follows:

Authority: 5 U.S.C. 553; 31 U.S.C. 9701; 46 U.S.C. 305, 40102, 40104, 40501–40503, 40901–40904, 41101–41109, 41301–41302, 41305–41307; Pub. L. 105–383, 112 Stat. 3411; 21 U.S.C. 862.

■ 2. In subpart B, add new § 515.19 to read as follows:

§ 515.19 Registration of foreign-based unlicensed NVOCC.

(a) Any NVOCC whose primary place of business is located outside the United States and does not elect to become licensed by the Commission shall register with the Commission by submitting to the Director of the Bureau of Certification and Licensing (BCL) a completed registration form, Form FMC–65 (Foreign-based Unlicensed NVOCC Registration/Renewal). A notice of each registration shall be published on the Commission's Web site *www.fmc.gov.* It is a violation of the Commission's regulations implementing the Shipping Act for a foreign-based unlicensed non-vessel-operating common carrier to provide NVOCC services in the U.S. foreign trade

in its registration form and updates in accordance with 46 CFR 515.19(f) continues to be accurate and complete.'''

[2] NVOCCs are exempt from the tariff rate publication requirements for shipments moving under lawful NRAs. 46 CFR 532.2.

without a valid registration and an effective tariff.

(b) A registration form which appears, upon submission, to be substantially incomplete may be rejected. If rejected, a notice, together with the reasons therefore, shall be sent to the foreign-based unlicensed NVOCC. Persons who have had a registration rejected may submit a new registration at any time.

(c) Registrations are complete upon receipt of a registration form which meets the requirements of this section and upon evidence of financial responsibility being furnished pursuant to § 515.21.

(d) Registrations shall be effective for a period of three (3) years. Thereafter, registrations will be renewed for sequential three year periods upon submission of an updated registration form.

(e) A tariff shall not be published and NVOCC service shall not commence until the Commission receives valid proof of financial responsibility from the registrant and a Form FMC–1 has been filed.

(f) Registered NVOCCs must report in writing to BCL any changes, within 30 days of such changes, to: legal name(s) or trade name(s); principal place of business address (including telephone number, facsimile number); contact person and email address (including physical address if different from principal place of business); name of resident agent(s) (including physical address, mailing address, email address, telephone and facsimile number(s), and contact person) in the United States for receipt of service of judicial and administrative process (including subpoenas).

(g) *Termination or suspension of registration.*

(1) *Grounds.* A registration shall become automatically ineffective for a failure of a registered NVOCC to maintain proof of financial responsibility on file with the Commission. The effectiveness of such a registration may otherwise be terminated or suspended, after notice and the opportunity for a hearing, for any of the following reasons:

(i) Violation of any provision of the Act, or any other statute or Commission order or regulation related to carrying on the business of an ocean transportation intermediary;

(ii) Failure to respond to any lawful order or inquiry by the Commission or an authorized Commission representative;

(iii) Making a materially false or misleading statement to the Commission in connection with a registration or renewal thereof;

(iv) Failure to honor financial obligations to the Commission;

(v) Failure to timely renew a registration;

(vi) Failure to maintain a Form FMC–1 or a tariff in compliance with 46 CFR part 520;

(vii) Knowingly and willfully processing, booking, or accepting cargo from, or transporting cargo for the account of, an NVOCC that is not licensed or registered, or has not provided proof of financial responsibility or published an effective tariff; and

(viii) Failure to designate and maintain a person in the United Stated as legal agent for the receipt of judicial and administrative process, including subpoenas, as required by § 515.24.

(2) [Reserved]

(3) *Publication of Notice.* The Commission shall publish on the Commission's Web site, *www.fmc.gov,* a notice of each termination or suspension.

■ 3. In § 515.24, revise paragraphs (b), (c), and (d) to read as follows:

§ 515.24 Agent for service of process.

* * * * *

(b) Service of administrative process, other than subpoenas, may be effected upon the legal agent by dispatching a copy of the document to be served by mail or courier service. Administrative subpoenas shall be served in accordance with § 502.134 of this chapter.

(c) If the designated legal agent cannot be served because of death, disability, unavailability, termination or expiration of the designation, or if a legal agent authorized to receive such service is not designated in compliance with this section, the Secretary of the Federal Maritime Commission will be deemed to be the legal agent for service of process. Any person serving the Secretary must also send to the ocean transportation intermediary, or group or association of ocean transportation intermediaries which provide financial coverage for the financial responsibilities of a member ocean transportation intermediary, by mail or courier service at the ocean transportation intermediary's, or group's, address published in its tariff, a copy of each document served upon the Secretary, and shall attest to that service at the time service is made upon the Secretary. For purposes of this paragraph, it is sufficient that a person seeking to serve process on an ocean transportation intermediary, or group of such intermediaries, affirm to the Commission's Secretary that: they have contacted, or attempted to contact, the designated agent to confirm whether it remained authorized to accept service of process; or, if no legal agent is designated in the tariff, that it has no knowledge of the identity of the ocean transportation intermediary's legal agent. Designation of the Commission's Secretary as the legal agent shall survive any cancellation of the OTI's license or tariff and shall continue for the entire period during which claims may be made under the OTI's financial responsibility instrument.

(d) Designations of legal agent under paragraphs (a) and (b) of this section and provisions relating to service of process under paragraph (c) of this section shall be published in the ocean transportation intermediary's tariff, when required, in accordance with part 520 of this chapter.

* * * * *

■ 4. In § 515.91, correct the reference ''3072–0012'' to read ''3072–0018.''

PART 520—CARRIER AUTOMATED TARIFFS

■ 5. The authority citation for part 520 continues to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. 305, 40101–40102, 40501–40503, 40701–40706, 41101–41109.

■ 6. In § 520.13, revise paragraph (e) to read as follows:

§ 520.13 Exemptions and exceptions.

* * * * *

(e) NVOCC Negotiated Rate Arrangements. An NVOCC that satisfies the requirements of part 532 of this chapter is exempt from the requirement in this part that it include rates in a tariff open to public inspection in an automated tariff system.

PART 532—NVOCC NEGOTIATED RATE ARRANGEMENTS

■ 7. The authority citation for part 532 continues to read as follows:

Authority: 46 U.S.C. 40103.

■ 8. Revise § 532.1 to read as follows:

§ 532.1 Purpose.

The purpose of this part, pursuant to the Commission's statutory authority, is to exempt non-vessel-operating common carriers (NVOCCs) from the tariff rate publication and adherence requirements of the Shipping Act of 1984, as enumerated herein.

■ 9. Amend § 532.2 as follows:

■ a. Revise introductory text to read as follows; and

■ b. Amend paragraph (g) by revising the second sentence to read as follows.

§ 532.2 Scope and applicability.

This part exempts NVOCCs duly licensed pursuant to 46 CFR 515.3 or registered pursuant to 46 CFR 515.19, holding adequate proof of financial responsibility pursuant to 46 CFR 515.21, and meeting the requirements of 46 CFR 532.4 through 532.7, from the following requirements and prohibitions of the Shipping Act and the Commission's regulations:

* * * * *

(g) * * * Any NVOCC failing to maintain its bond or license or registration as set forth above, or who has had its tariff suspended by the Commission, shall not be eligible to invoke this exemption.

■ 10. In § 532.7, revise paragraph (b) to read as follows.

§ 532.7 Recordkeeping and audit.

* * * * *

(b) NRAs are subject to inspection and reproduction requests by the Commission. An NVOCC shall produce the requested NRAs promptly in response to a Commission request. All records produced must be in English or be accompanied by a certified English translation.

* * * * *

By the Commission.

Karen V. Gregory,

Secretary.

[FR Doc. 2013–17191 Filed 7–17–13; 8:45 am]

BILLING CODE 6730–01–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 192

[Docket No. PHMSA–2013–0097]

Pipeline Safety: Reminder of Requirements for Utility LP-Gas and LPG Pipeline Systems

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Issuance of Advisory Bulletin.

SUMMARY: PHMSA is issuing an Advisory Bulletin to remind owners and operators of liquefied petroleum gas (LPG) and utility liquefied petroleum gas (utility LP-Gas) plants that although they must follow the American National Standards Institute/National Fire Protection Association (ANSI/NFPA) standards 58 or 59, they must also follow certain sections and requirements of Part 192.

FOR FURTHER INFORMATION CONTACT: Todd DelVecchio by phone at 727–213–1575 or by email at *todd.delvecchio@dot.gov,* or Mike Israni at 202–366–4571 or by email at *mike.israni@dot.gov.* Information about PHMSA may be found at *http://phmsa.dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

49 CFR 192.11 requires that each plant that supplies petroleum gas by pipeline to a natural gas distribution system must meet the requirements of Part 192 and ANSI/NFPA 58 and 59 (2004) (192.11(a)). It also states that each pipeline system subject to Part 192 that transports only petroleum gas or petroleum gas/air mixtures must meet the requirements of Part 192 and of ANSI/NFPA 58 and 59 (192.11(b)). Finally, the regulation lays out a primacy provision stating that in the event of a conflict between the regulation and the standard, ANSI/NFPA 58 and 59 prevail (192.11(c)). However, this primacy provision does not excuse operators from following Part 192 requirements. For instance, when ANSI/NFPA 58 or 59 (2004) does not address a specific subject, then no conflict has occurred and the operator must follow Part 192 requirements.

At the time the primacy provision was added to the regulations in 1996, the standards took advantage of more current petroleum gas transportation technology and safety practices. In a July 22, 2009, (74 FR 36139) Notice of Proposed Rulemaking (NPRM), PHMSA proposed changing this primacy provision. PHMSA proposed changing this provision because the new NFPA standards issued in 2008 had many conflicts with Part 192 and PHMSA had noticed that operators were misinterpreting § 192.11(c). In response to the NPRM, commenters objected to the change suggesting it would result in unanticipated safety consequences. PHMSA did not take any action at the final rule stage, but in the future, PHMSA may undertake a rulemaking to address this issue. This Advisory Bulletin serves to remind owners and operators of petroleum gas systems that they must continue to comply with certain requirements of Part 192.

II. Advisory Bulletin (ADB–2013–03)

To: Owners and operators of LPG and utility LP-gas plants.

Subject: Applicability of Part 192 to owners and operators of LPG and utility LP-gas plants.

Advisory: When ANSI/NFPA 58 or 59 (2004) does not address a specific subject, then a conflict has not occurred and the operator must follow Part 192 requirements. Part 192 covers areas that are not addressed in ANSI/NFPA 58 or 59 (2004). These areas include:

- Inspection requirements for distribution mains (§§ 192.305 and 192.307).
- Backfill requirements for installing pipe in a ditch (§ 192.319).
- Underground pipe clearance requirements (§ 192.325).
- Valve requirements for service lines (§§ 192.363 and 192.365).
- Continuing surveillance (§ 192.613).
- Public awareness (except for small LP-gas systems) (§ 192.614).
- Operator qualification (except for small utility LP-Gas systems) (Subpart N).
- Distribution Pipeline Integrity Management (Subpart P).

While not intended to be an exhaustive list, the following table highlights various requirements of Part 192 that are not addressed by ANSI/NFPA 58 and 59 (2004). Because ANSI/NFPA 58 and 59 (2004) do not have specific language on these topics, there is no conflict, and therefore Part 192 applies in these areas.

Section	Title
Subpart G—General Construction Requirements for Transmission Lines and Mains	
192.305	Inspection: General.
192.307	Inspection of materials.
192.319	Installation of pipe in a ditch.
192.323	Casing.
192.325	Underground clearance.
Subpart H—Customer Meters, Service Regulators, and Service Lines	
192.363	Service lines: Valve requirements.
192.365	Service lines: Location of valves.
Subpart L—Operations	
192.613	Continuing Surveillance.
192.614	Damage Prevention Program.
192.615	Emergency Plans.
192.616	Public Awareness.
Subpart N—Qualification of Pipeline Personnel	
This Part 192 subpart would apply in its entirety; NFPA 58 does not address any requirements of this subpart.	
Subpart P—Distribution Pipeline Integrity Management (IM)	
This Part 192 subpart would apply in its entirety; NFPA 58 does not address any requirements of this subpart.	

Issued in Washington, DC, on July 11, 2013.

Jeffrey D. Wiese,

Associate Administrator for Pipeline Safety.

[FR Doc. 2013–17229 Filed 7–17–13; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 121129661–3591–03]

RIN 0648–BC81

Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery and Northeast Multispecies Fishery; Framework Adjustment 24 and Framework Adjustment 49; Correction

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

ACTION: Correcting amendment.

SUMMARY: This action contains corrections and clarifications to the final rule implemented through Joint Framework Adjustment 24 to the Scallop Fishery Management Plan and Framework Adjustment 49 to the Northeast Multispecies Fishery Management Plan (Joint Framework 24/49), which published in the **Federal Register** on May 9, 2013. Following publication, NMFS identified certain provisions of the implementing regulations for Joint Framework 24/49 that needed correcting or clarification. Specifically, this correcting amendment makes corrections pertaining to the scallop fishery's default 2014 fishing year days-at-sea allocation for full-time vessels so that the allocation in the regulations is as intended by Joint Framework 24/49 (i.e., currently this allocation is greater than specified through the preambles to the proposed and final rules). In addition, this amendment makes corrections to the observer call-in requirements for scallop limited access general category individual fishing quota vessels when fishing in open areas so that vessel owners and operators are clear on when they are required to call into the industry-funded observer program.

DATES: Effective July 18, 2013.

FOR FURTHER INFORMATION CONTACT: Emily Gilbert, Fishery Policy Analyst, 978–281–9244; fax 978–281–9135.

SUPPLEMENTARY INFORMATION:

Background

On May 9, 2013, the final rule for Joint Framework 24/49 published in the **Federal Register** (78 FR 27088). The primary purpose of Joint Framework 24/49, developed by the New England Fishery Management Council (Council), was to set specifications for the scallop fishery, including days-at-sea (DAS), individual fishing quota (IFQ), and sea scallop access area trip allocations for fishing year (FY) 2013 and FY 2014 (default allocations). This action also made other adjustments to the Scallop FMP, including revisions to the industry-funded observer program for limited access general category (LAGC) IFQ vessels. This action was a joint framework with the Northeast Multispecies Fishery Management Plan (FMP) (i.e., Framework 49) because it adjusted the Georges Bank scallop access area seasonal closure schedules, which changed exemptions to areas closed to fishing specified in the Northeast Multispecies FMP.

Need for Correction

After publication of the final rule implementing Joint Framework 24/49, NMFS identified certain provisions that needed correcting or clarification. This rule makes these corrections and clarifications.

Correction

This action revises the table at § 648.53(b)(4) to correctly reference the FY 2014 DAS allocation for full-time vessels. Although the preambles in both the proposed and final rules correctly state the FY 2014 DAS allocations outlined in Joint Framework 24/49, the table in the final rule inadvertently included a higher full-time vessel DAS allocation for FY 2014 (i.e., 26 DAS instead of 23 DAS).

This action also revises the regulatory text at § 648.11(g) and the definition for scallop open areas at § 648.2 to clarify the industry-funded observer program call-in requirements for scallop LAGC IFQ vessels when fishing in open areas. Joint Framework 24/49 broadened the industry-funded observer program to include LAGC IFQ open area trips (previously, the program only applied to access area trips for this portion of the scallop industry). However, Joint Framework 24/49 inadvertently implemented ambiguous regulatory language that did not fully clarify that this broadening of the industry-funded observer program did not include vessels fishing in the Northern Gulf of Maine (NGOM) management area (i.e., the NGOM should not be considered part of scallop open areas). The Council designated the NGOM as a distinct management area through Amendment 11 to the Scallop FMP (73 FR 20090; April 14, 2008). Very few IFQ vessels fish in the NGOM management area, but when they do, they must fish under the regulations set for NGOM-permitted vessels. NGOM-permitted vessels are not part of the industry-funded observer program and NMFS covers the costs for these observed trips. This action clarifies the intent of both Joint Framework 24/49 and Amendment 11 by stating that the NGOM is not part of the scallop open areas, and, as such, that LAGC IFQ vessels fishing in the NGOM are not subject to the call-in requirements for the industry-funded observer program.

Classification

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator for Fisheries, NOAA, finds good cause to waive prior notice and opportunity for public comment for this action because any delay of this action would be unnecessary and contrary to the public interest. This correcting amendment includes revisions that reflect the measures detailed in the preamble of the proposed rule for Joint Framework 24/49, for which the opportunity for public comment was already given. The revision to the full-time vessel DAS allocation table, while it reduces the DAS, was correctly described in the preamble to the proposed and final rule. The revision is therefore one that could have been anticipated. Such a reduction is needed in order to ensure that the DAS allocations specified at the start of FY 2014 will not be set at a level that could result in overharvest of the scallop resource. The Council is currently developing the formal FY 2014 specifications through Framework 25, which, if approved, would be implemented by May 2014 (i.e., 2 months after the start of FY 2014). The default FY 2014 specifications set through Joint Framework 24/49 are intended to allow for open area fishing at the start of FY 2014, but not at a level that would exceed the final Framework 25 allocations. No public comments were received on the FY 2014 DAS default allocations. The clarification of changes to the industry-funded call-in requirements make only minor, non-substantive changes in order to clarify the regulations. No public comments were received regarding the inclusion of LAGC IFQ open area trips as part of the industry-funded observer program. Delay in implementing the clarification to the industry-funded call-in requirements is contrary to the public interest because LAGC IFQ vessel

operators are currently confused about whether or not they are required to call the industry-funded observer program when fishing in the NGOM. Implementing this clarification will alleviate unnecessary confusion.

Moreover, pursuant to 5 U.S.C. 553(d), the Assistant Administrator finds good cause to waive the 30-day delay in effective date for the reasons given above. These revisions make only minor, non-substantive changes and do not change operating practices in the fishery.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* are inapplicable.

This final rule is exempt from review under Executive Order 12866.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: July 15, 2013.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

Accordingly, 50 CFR part 648 is corrected by making the following correcting amendments:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.2, the definition for ''open areas'' is revised to read as follows:

§ 648.2 Definitions.

* * * * *

Open areas, with respect to the Atlantic sea scallop fishery, means any area that is not subject to restrictions of the Sea Scallop Access Areas specified in §§ 648.59 and 648.60, Rotational Closed Areas specified in § 648.58, EFH Closed Areas specified in § 648.61, or the Northern Gulf of Maine Management Area specified in § 648.62.

* * * * *

■ 3. In § 648.11, paragraph (g)(2)(ii) and the introductory text to paragraph (g)(5) are revised to read as follows:

§ 648.11 At-sea sea sampler/observer coverage.

* * * * *

(g) * * *

(2) * * *

(ii) *LAGC IFQ vessels.* LAGC IFQ vessel owners, operators, or managers must notify the NMFS/NEFOP by telephone by 0001 hr of the Thursday preceding the week (Sunday through Saturday) that they intend to start any open area or access area scallop trip and must include the port of departure, open area or specific Sea Scallop Access Area to be fished, and whether fishing as a scallop dredge, scallop trawl vessel. If selected, up to two trips that start during the specified week (Sunday through Saturday) can be selected to be covered by an observer. NMFS/NEFOP must be notified by the owner, operator, or vessel manager of any trip plan changes at least 48 hr prior to vessel departure.

* * * * *

(5) Owners of scallop vessels shall be responsible for paying the cost of the observer for all scallop trips on which an observer is carried onboard the vessel, regardless of whether the vessel lands or sells sea scallops on that trip, and regardless of the availability of set-aside for an increased possession limit or reduced DAS accrual rate. The owners of vessels that carry an observer may be compensated with a reduced DAS accrual rate for open area scallop trips or additional scallop catch per day in Sea Scallop Access Areas or additional catch per open area or access area trip for LAGC IFQ trips in order to help defray the cost of the observer, under the program specified in §§ 648.53 and 648.60.

* * * * *

■ 3. In § 648.53, the introductory text to paragraph (b)(4) is revised to read as follows:

§ 648.53 Acceptable biological catch (ABC), annual catch limits (ACL), annual catch targets (ACT), DAS allocations, and individual fishing quotas (IFQ).

* * * * *

(b) * * *

(4) Each vessel qualifying for one of the three DAS categories specified in the table in this paragraph (b)(4) (full-time, part-time, or occasional) shall be allocated the maximum number of DAS for each fishing year it may participate in the open area limited access scallop fishery, according to its category, excluding carryover DAS in accordance with paragraph (d) of this section. DAS allocations shall be determined by distributing the portion of ACT specified in paragraph (a)(3)(ii) of this section, as reduced by access area allocations specified in § 648.59, and dividing that amount among vessels in the form of DAS calculated by applying estimates of open area LPUE specified in paragraph (b)(1) of this section. Allocation for part-time and occasional scallop vessels shall be 40 percent and 8.33 percent of the full-time DAS allocations, respectively. The annual open area DAS allocations for each category of vessel for the fishing years indicated are as follows:

SCALLOP OPEN AREA DAS ALLOCATIONS

Permit category	2013	2014
Full-Time	33	23
Part-Time	13	9
Occasional	3	2

* * * * *

[FR Doc. 2013–17270 Filed 7–17–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 121018563–3148–02]

RIN 0648–XC761

Fisheries of the Exclusive Economic Zone Off Alaska; Rougheye Rockfish in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting retention of rougheye rockfish in the Bering Sea subarea and Eastern Aleutian district (BS/EAI) of the Bering Sea and Aleutian Island management area (BSAI). This action is necessary because the 2013 total allowable catch of rougheye rockfish in the BS/EAI will soon be reached.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), July 15, 2013, through 2400 hours, A.l.t., December 31, 2013.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7269.

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 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.

The 2013 total allowable catch (TAC) of rougheye rockfish in the BS/EAI is 169 metric tons as established by the final 2013 and 2014 harvest specifications for groundfish of the BSAI (78 FR 13813, March 1, 2013).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2013 TAC of rougheye rockfish in the BS/EAI of the BSAI will soon be reached. Therefore, NMFS is requiring that rougheye rockfish in the BS/EAI of the BSAI be treated as prohibited species in accordance with § 679.21(b).

Classification

This action responds to the best available information recently obtained from the fishery. The Acting 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 prohibiting the retention of rougheye rockfish in the BS/EAI of the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of July 11, 2013.

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 679.21 and is exempt from review under Executive Order 12866.

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

Dated: July 15, 2013.

Kelly Denit,

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

[FR Doc. 2013–17257 Filed 7–15–13; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 78, No. 138
Thursday, July 18, 2013

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.

FARM CREDIT ADMINISTRATION

12 CFR Chapter VI

RIN 3052–AC88

Statement on Regulatory Burden

AGENCY: Farm Credit Administration.

ACTION: Notice of intent; request for comment.

SUMMARY: The Farm Credit Administration (FCA, our, or we) issues this notice in order to consider whether our existing regulations are inefficient or burdensome. We seek public comment on the appropriateness of the requirements we impose on Farm Credit System (System) institutions, including the Federal Agricultural Mortgage Corporation (Farmer Mac). We ask for comments on our regulations that may duplicate other requirements, are ineffective, are not based on law, or impose burdens that are greater than the benefits received.

DATES: Please send your comments to FCA by November 15, 2013.

ADDRESSES: We offer a variety of methods for you to submit comments on this notice. For accuracy and efficiency reasons, commenters are encouraged to submit comments by email or through FCA's Web site. As facsimiles (fax) are difficult for us to process and achieve compliance with section 508 of the Rehabilitation Act, we are no longer accepting comments submitted by fax. Regardless of the method you use, please do not submit your comment multiple times via different methods. You may submit comments by any of the following methods:

- *Email:* Send us an email at *reg-comm@fca.gov.*
- *FCA Web site: http://www.fca.gov.* Select ''Public Commenters,'' then ''Public Comments,'' and follow the directions for ''Submitting a Comment.''
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Barry F. Mardock, Deputy Director, Office of Regulatory Policy, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090.

You may review copies of all comments we receive at our office in McLean, Virginia, or on our Web site at *http://www.fca.gov.* Once you are in the Web site, select ''Public Commenters,'' then ''Public Comments,'' and follow the directions for ''Reading Submitted Public Comments.'' We will show your comments as submitted, but for technical reasons we may omit items such as logos and special characters. Identifying information that you provide, such as phone numbers and addresses, will be publicly available. However, we will attempt to remove email addresses to help reduce Internet spam.

FOR FURTHER INFORMATION CONTACT: Lori Markowitz, Policy Analyst, Office of Regulatory Policy, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4487, TTY (703) 883–4056, or Mary Alice Donner, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–4056.

SUPPLEMENTARY INFORMATION:

I. Objective

The objective of this notice is to continue our comprehensive review of regulations governing the System and to eliminate, consistent with law and safety and soundness, all regulations that are unnecessary, unduly burdensome or costly, or not based on the law.

The notice requests public comment on FCA regulations that:

- Are not currently under review;
- Were effective prior to January 1, 2012;
- May duplicate other requirements;
- Are ineffective;
- Are not based on law; or
- Impose burdens that are greater than the benefits received.

II. Background

FCA is the independent Federal agency in the executive branch of the Government responsible for examining and regulating System institutions. System banks and associations primarily provide loans to farmers, ranchers, aquatic producers and harvesters, agricultural cooperatives, and rural utilities. Farmer Mac provides a secondary market for agricultural and rural housing mortgages and eligible rural utility cooperative loans.

III. Our Continuing Efforts To Reduce Unnecessary Regulatory Burdens

The regulations of FCA that are subject to regulatory review described in this notice are codified in title 12, chapter VI, of the Code of Federal Regulations. We are requesting your comments on any FCA regulations or policies that may duplicate other governmental requirements, are not effective in achieving stated objectives, are not based on law, or create a burden that is perceived to be greater than the benefits received. Please do not respond to this solicitation with comments concerning proposed regulations that are currently under review, or final regulations that did not become effective until after January 1, 2012.

Your comments will assist us in our continuing efforts to identify and reduce unnecessary regulatory burdens on System institutions. We will also continue our efforts to maintain and adopt regulations and policies that are necessary to implement the Farm Credit Act of 1971, as amended, and ensure the safety and soundness of the System. These actions will enable the System institutions to better serve the credit needs of its customers, *i.e.,* America's farmers, ranchers, aquatic producers and harvesters, cooperatives, and rural residents, in the changing agricultural credit markets.

Dated: July 12, 2013.

Dale L. Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2013–17181 Filed 7–17–13; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0548; Directorate Identifier 2013–NM–008–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Bombardier, Inc. Model BD–700–1A11 airplanes. This proposed AD was prompted by a report that certain lanyards for the passenger oxygen masks are longer than the specified length, possibly leading to inactive oxygen masks in an emergency. This proposed AD would require replacing certain oxygen mask lanyards. We propose this AD to detect and correct lanyards of incorrect length, which might not activate the flow of oxygen in an emergency, resulting in injury to passengers.

DATES: We must receive comments on this proposed AD by September 3, 2013.

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

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

For service information identified in this proposed AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Cesar Gomez, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7318; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0548; Directorate Identifier 2013–NM–008–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2012–31, dated December 7, 2012 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> The aeroplane manufacturer has determined that the Oxygen Dispensing Unit (ODU) lanyards, in several locations throughout the aeroplane cabin, are excessively long. In an emergency situation where oxygen is required, it is possible that certain occupants may put their oxygen mask on without automatically activating the oxygen flow which could result in a fatal injury.
>
> This [Canadian] AD mandates the replacement of the existing ODU lanyards with lanyards of the correct length.

You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Bombardier, Inc. has issued Service Bulletin 700–1A11–35–009, dated October 22, 2012. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

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

Differences Between This AD and the MCAI or Service Information

This AD applies only to airplanes that have been modified by FAA Supplemental Type Certificate (STC) ST02140NY, issued October 14, 2005. Internet: *http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/6B8CF26D01F5E6DE862570C7006DCD7E?OpenDocument&Highlight=st02140ny.*

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 22 products of U.S. registry. We also estimate that it would take about 16 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $0 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $29,920, or $1,360 per product.

Authority for This Rulemaking

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

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

products identified in this rulemaking action.

Regulatory Findings

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

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

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

Bombardier, Inc.: Docket No. FAA–2013–0548; Directorate Identifier 2013–NM–008–AD.

(a) Comments Due Date

We must receive comments by September 3, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc. Model BD–700–1A11 airplanes, certificated in any category, modified by FAA Supplemental Type Certificate (STC) ST02140NY, issued October 14, 2005. Internet: *http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/6B8CF26D01F5E6DE862570C7006DCD7E?OpenDocument&Highlight=st02140ny.*

(d) Subject

Air Transport Association (ATA) of America Code 35, Oxygen.

(e) Reason

This AD was prompted by a report that certain lanyards for the passenger oxygen masks are longer than the specified length, possibly leading to inactive oxygen masks in an emergency. We are issuing this AD to detect and correct lanyards of incorrect length, which might not activate the flow of oxygen in an emergency, resulting in injury to passengers.

(f) Compliance

You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

(g) Replacement

Within 750 flight hours or 15 months after the effective date of this AD, whichever occurs first: Replace lanyards having part numbers (PN) B431564–503 and –505 for all passenger oxygen dispensing units, with lanyards having PN B431564–507, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 700–1A11–35–009, dated October 22, 2012.

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(i) Related Information

(1) Refer to Canadian Airworthiness Directive CF–2012–31, dated December 7, 2012, for related information.

(2) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on July 5, 2013.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–17255 Filed 7–17–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0547; Directorate Identifier 2013–NM–028–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 727–200 and 727–200F series airplanes. This proposed AD is intended to complete certain mandated programs intended to support the airplane reaching its limit of validity (LOV) of the engineering data that support the established structural maintenance program. This proposed AD would require a one-time inspection for cracking of the pressure floor of both main wheel wells, and related investigative and corrective actions if necessary; and would require modifying the pressure floor of both main wheel wells. We are proposing this AD to prevent fatigue cracking in the pressure floor of the main wheel wells, which could lead to rapid loss of cabin pressurization.

DATES: We must receive comments on this proposed AD by September 3, 2013.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations,

M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

• *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Galib Abumeri, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Blvd., Suite 100, Lakewood, CA 90712–4137; phone: 562–627–5324; fax: 562–627–5210; email: *Galib.Abumeri@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0547; Directorate Identifier 2013–NM–028–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

As described in FAA Advisory Circular 120–104 (*http://www.faa.gov/documentLibrary/media/Advisory_Circular/120-104.pdf*), several programs have been developed to support initiatives that will ensure the continued airworthiness of aging airplane structure. The last element of those initiatives is the requirement to establish a LOV of the engineering data that support the structural maintenance program under 14 CFR 26.21. This AD is the result of an assessment of the previously established programs by Boeing during the process of establishing the LOV for Boeing Model 727 series airplanes. The action specified in this proposed AD is necessary to complete certain programs to ensure the continued airworthiness of aging airplane structure and to support an airplane reaching its LOV.

We have received reports of cracks in the pressure floor of the main landing gear (MLG) wheel wells. Three operators reported cracks from 25 to 48 inches long, resulting in rapid decompression of the airplane. Twenty-four operators reported 67 airplanes with cracks up to two inches located in the reinforcing beads on both sides of the frame. This fatigue cracking, if not corrected, could result in rapid loss of cabin pressurization.

Relevant Service Information

We reviewed Boeing Service Bulletin 727–53A0124, Revision 3, dated November 30, 1989. For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for Docket No. FAA–2013–0547.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would require a one-time eddy current inspection, penetrant inspection, or detailed inspection for cracking of the pressure floor of both main wheel wells as described in Part I, ''Inspection,'' of the Accomplishment Instructions of the service information described previously, and related investigative and corrective actions if necessary; and would also require accomplishing the modification specified in Part III, ''Preventive Modification,'' of the Accomplishment Instructions of the service information described previously.

The phrase ''related investigative actions'' is used in this proposed AD. ''Related investigative actions'' are follow-on actions that: (1) Are related to the primary actions, and (2) are actions that further investigate the nature of any condition found. Related investigative actions in an AD could include, for example, inspections.

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

Differences Between the Proposed AD and the Service Information

Prior to accomplishing the preventive modification, this proposed AD would require a one-time inspection of the pressure floor for cracks in both the right and left main wheel wells, and corrective actions if necessary, in lieu of the repetitive inspections specified in Boeing Service Bulletin 727–53A0124, Revision 3, dated November 30, 1989. The repetitive inspections are addressed by AD 91–22–08, Amendment 39–8068 (56 FR 57233, November 8, 1991). Additionally, the applicability of this proposed AD is different than the effectivity described in Boeing Service Bulletin 727–53A0124, Revision 3, dated November 30, 1989.

Explanation of Compliance Time

The compliance time for the modification specified in this proposed AD for addressing WFD was established to ensure that discrepant structure is modified before WFD develops in airplanes. Standard inspection techniques cannot be relied on to detect WFD before it becomes a hazard to flight. We will not grant any extensions of the compliance time to complete any AD-mandated service bulletin related to WFD without extensive new data that would substantiate and clearly warrant such an extension.

Related Rulemaking

AD 90–06–09, Amendment 39–6488 (55 FR 8370, March 7, 1990), requires accomplishing the preventive modification specified in Boeing Alert Service Bulletin 727–53A0124, Revision 2, dated May 2, 1975, for airplane line numbers 1 through 1102 inclusive. AD 91–22–08, Amendment 39–8068 (56 FR 57233, November 8, 1991), requires compliance with the inspection and repair, if necessary specified in Boeing Service Bulletin 727–53A0124, Revision

3, dated November 30, 1989, for airplane line numbers 1 through 1832 inclusive, but does not require the preventive modification.

Costs of Compliance

We estimate that this proposed AD affects 94 airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection and Modification	222 work-hours × $85 per hour = $18,870	$2,906	$21,776	$2,046,944

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this proposed AD.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2013–0547; Directorate Identifier 2013–NM–028–AD.

(a) Comments Due Date

We must receive comments by September 3, 2013.

(b) Affected ADs

This AD affects AD 91–22–08, Amendment 39–8068 (56 FR 57233, November 8, 1991).

(c) Applicability

This AD applies to The Boeing Company Model 727–200 and 727–200F series airplanes, certificated in any category, lines numbers 1103 and subsequent.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD is intended to complete certain mandated programs intended to support the airplane reaching its limit of validity (LOV) of the engineering data that support the established structural maintenance program. We are issuing this AD to prevent fatigue cracking in the pressure floor of the main wheel wells, which could lead to rapid loss of cabin pressurization.

(f) Compliance

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

(g) Inspection

Before the accumulation of 60,000 total flight cycles, or within 24 months after the effective date of this AD, whichever occurs later: Do a one-time detailed inspection for cracking of the pressure floor of both main wheel wells, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 727–53A0124, Revision 3, dated November 30, 1989, except as specified in paragraph (h) of this AD. If any indication of distress is found (such as cracking or flaked paint): Before further flight do an eddy current inspection or penetrant inspection for cracking of the pressure floor of both main wheel wells, and do all applicable related investigative and corrective actions, by accomplishing all the actions specified in the Accomplishment Instructions of Boeing Service Bulletin 727–53A0124, Revision 3, dated November 30, 1989. Do all applicable related investigative and corrective actions before further flight.

(h) Exception to Service Information

Where Boeing Service Bulletin 727–53A0124, Revision 3, dated November 30, 1989, specifies a close visual inspection, this AD requires a detailed inspection, which is an intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirror, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate procedures may be required.

(i) Preventive Modification

Before further flight after accomplishing the actions required by paragraph (g) of this AD: Do a preventive modification of the pressure floor of both main wheel wells, in accordance with Part III of the Accomplishment Instructions of Boeing Service Bulletin 727–53A0124, Revision 3, dated November 30, 1989.

(j) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (i) of this AD, if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin 727–53A0124, Revision 2, dated May 2, 1975.

(k) Termination of Certain Actions in AD 91–22–08, Amendment 39–8068 (56 FR 57233, November 8, 1991)

Accomplishment of the preventative modification required by paragraph (i) of this

AD terminates the repetitive inspection requirement required by AD 91–22–08, Amendment 39–8068 (56 FR 57233, November 8, 1991) for airplanes with line number 1103 and subsequent.

(l) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

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

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

(m) Related Information

(1) For more information about this AD, contact Galib Abumeri, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Blvd., Suite 100, Lakewood, CA 90712–4137; phone: 562–627–5324; fax: 562–627–5210; email: *Galib.Abumeri@faa.gov.*

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

Issued in Renton, Washington, on July 5, 2013.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–17253 Filed 7–17–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0624; Directorate Identifier 2013–NM–071–AD]

RIN 2120–AA64

Airworthiness Directives; ATR–GIE Avions de Transport Régional Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain ATR–GIE Avions de Transport Régional Model ATR72–101, –201, –102, –202, –211, –212, and –212A airplanes. This proposed AD was prompted by reports of airplane incidents and accidents that have occurred because of low-level fuel tank situations and fuel starvation that resulted in engine flameouts. This proposed AD would require installing a fuel quantity indicator (FQI) equipped with a locking adaptor on the electrical connector. We are proposing this AD to prevent an engine flame-out, which could result in reduced controllability of the airplane.

DATES: We must receive comments on this proposed AD by September 3, 2013.

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

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

For service information identified in this proposed AD, contact ATR–GIE Avions de Transport Régional, 1, Allée Pierre Nadot, 31712 Blagnac Cedex, France; telephone +33 (0) 5 62 21 62 21; fax +33 (0) 5 62 21 67 18; email *continued.airworthiness@atr.fr;* Internet *http://www.aerochain.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–1137; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0624; Directorate Identifier 2013–NM–071–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2013–0047, dated March 4, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> Large aeroplane incidents and accidents have occurred because of fuel tank low level situations, or because of fuel starvation, resulting in one or several engine(s) flame-out. The results of the investigation into an ATR 72 accident in August 2005 have shown that overruling standard operational procedures and maintenance practices have led to this kind of occurrence.

Consequently, additional actions to help avoid maintenance errors, like installation of a wrong gauge or wrong indicator, need to be taken.

Although it is recognised that the fuel (indicating) system of the ATR42/72 type design is compliant with the applicable requirements, the risk of other maintenance errors will be mitigated by making installation of an ATR 42 Fuel Quantity Indicator (FQI) on an ATR 72 aeroplane mechanically impossible through a specific design change on the ATR 72.

For the reasons described above, this [EASA] AD requires modification of the ATR 72 FQI by installing a locking adaptor on the electrical connector.

We are proposing this AD to prevent an engine flame-out, which could result in reduced controllability of the airplane. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Avions de Transport Régional has issued Service Bulletin ATR72–28–1026, dated February 26, 2013. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

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

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 25 products of U.S. registry. We also estimate that it would take about 2 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $3,882 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $101,300, or $4,052 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

ATR–GIE Avions de Transport Régional: Docket No. FAA–2013–0624; Directorate Identifier 2013–NM–071–AD.

(a) Comments Due Date

We must receive comments by September 3, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to ATR–GIE Avions de Transport Régional Model ATR72–101, –201, –102, –202, –211, –212, and –212A airplanes, certificated in any category, except airplanes that have received ATF modification 5948 in production.

(d) Subject

Air Transport Association (ATA) of America Code 28, Fuel.

(e) Reason

This AD was prompted by reports of airplane incidents and accidents that have occurred because of low-level fuel tank situations and fuel starvation that resulted in engine flameouts. We are issuing this AD to prevent an engine flame-out, which could result in reduced controllability of the airplane.

(f) Compliance

You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

(g) Installation

At the applicable compliance times specified in paragraph (g)(1) or (g)(2) of this AD: Install a fuel quantity indicator (FQI) equipped with a locking adaptor on the electrical connector, in accordance with the Accomplishment Instructions of Avions de Transport Régional Service Bulletin ATR72–28–1026, dated February 26, 2013.

(1) For airplanes on which a fuel secondary low level detection system is not installed: Within 24 months after the effective date of this AD.

(2) For airplanes on which a fuel secondary low level detection system is installed: Within 36 months after the effective date of this AD.

Note 1 to paragraph (g) of this AD: The fuel secondary low level detection system may have been installed through the embodiment of ATR modification 04686 in production, or as applicable, through ATR Service Bulletins ATR72–28–1013 or ATR72–28–1022 in service.

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–1137; fax (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC–REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(i) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) European Aviation Safety Agency Airworthiness Directive 2013–0047, dated March 4, 2013; and Avions de Transport Régional Service Bulletin ATR72–28–1026, dated February 26, 2013; for related information.

(2) For service information identified in this AD, contact ATR–GIE Avions de Transport Régional, 1, Allée Pierre Nadot, 31712 Blagnac Cedex, France; telephone +33 (0) 5 62 21 62 21; fax +33 (0) 5 62 21 67 18; email *continued.airworthiness@atr.fr;* Internet *http://www.aerochain.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on July 11, 2013.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–17293 Filed 7–17–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0545; Directorate Identifier 2013–NM–048–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 727 airplanes. This proposed AD is intended to complete certain mandated programs intended to support the airplane reaching its limit of validity (LOV) of the engineering data that support the established structural maintenance program. This proposed AD would require an inspection for cracks in the main wheel well pressure floor and a preventive modification or permanent repair, as applicable. We are proposing this AD to prevent cracking in the main wheel well pressure floor, which could result in reduced structural integrity of the airplane, and decompression of the cabin.

DATES: We must receive comments on this proposed AD by September 3, 2013.

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

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

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98057–3356. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Galib Abumeri, Aerospace Engineer, Airframe Branch, ANM 120L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Blvd., Suite 100, Lakewood, CA 90712 4137; phone: 562–627–5324; fax: 562–672–5210; email: *galib.abumeri@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0545; Directorate Identifier 2013–NM–048–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

As described in FAA Advisory Circular 120–104 (*http://www.faa.gov/documentLibrary/media/Advisory_Circular/120-104.pdf*), several programs have been developed to support initiatives that will ensure the continued airworthiness of aging airplane structure. The last element of those initiatives is the requirement to establish a LOV of the engineering data that support the structural maintenance program under 14 CFR 26.21. This proposed AD is the result of an assessment of the previously established programs by The Boeing Company during the process of establishing the

LOV for Model 727 airplanes. The actions specified in this proposed AD are necessary to complete certain programs to ensure the continued airworthiness of aging airplane structure and to support an airplane reaching its LOV.

We received reports of cracks on Model 727 airplanes along the ends of the pressure floor reinforcing beads at stations 930 and 940 in the main wheel well. Eight operators have reported 34 cracks on 20 airplanes. The cracks ranged from 0.38 inch to 15.25 inches, and the airplanes had accumulated between 24,000 and 42,000 total flight cycles and between 24,000 and 49,500 total flight hours. Cracking along the ends of the reinforcing beads in the pressure floor of the main wheel well could result in reduced structural integrity of the airplane, and decompression of the cabin.

Relevant Service Information

We reviewed Boeing Service Bulletin 727–53–0149, Revision 4, dated June 27, 1991. For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for Docket No. FAA–2013–0545.

Other Relevant Rulemaking

On August 26, 1992, the FAA issued AD 92–19–11, Amendment 39–8369 (57 FR 53247, November 9, 1992), for all Model 727 series airplanes. AD 92–19–11 requires repetitive inspections to detect fatigue-related cracking of the main landing gear wheel well pressure floor adjacent to certain body stations, and repair if necessary. AD 92–19–11 requires the preventive modification or permanent repair only for airplanes having line numbers 001 through 1432, later identified as Group 1 airplanes in Boeing Service Bulletin 727–53–0149, Revision 3, dated November 2, 1989; and Boeing Service Bulletin 727–53–0149, Revision 4, dated June 27, 1991.

On January 16, 1990, the FAA issued AD 90–06–09, Amendment 39–6488 (55 FR 8370, March 7, 1990), for Model 727 series airplanes listed in Boeing Document No. D6–54860, ''Aging Airplane Service Bulletin Structural Modification Program—Model 727,'' Revision C, dated December 11, 1989. AD 90–06–09 requires modifications using service bulletins listed in Section 3 of Boeing Document No. D6–54860, Revision C, dated December 11, 1989. One of the service bulletins listed in Boeing Document No. D6–54860 is Boeing Service Bulletin 727–53–0149, Revision 2, dated March 20, 1981. The effectivity of Boeing Service Bulletin 727–53–0149, Revision 2, dated March 20, 1981, is airplanes having line numbers 001 through 1432. These airplanes were later identified as Group 1 airplanes in Boeing Service Bulletin 727–53–0149, Revision 3, dated November 2, 1989; and Boeing Service Bulletin 727–53–0149, Revision 4, dated June 27, 1991. Therefore, AD 90–06–09 only requires the permanent repair or modification for Group 1 airplanes.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information identified previously, except as discussed under ''Differences Between the Proposed AD and the Service Information.''

Differences Between the Proposed AD and the Service Information

Boeing Service Bulletin 727–53–0149, Revision 4, dated June 27, 1991, includes repetitive inspections and preventive modification and permanent repair instructions for both Group 1 and Group 2 airplanes, as identified in that service bulletin. This proposed AD would mandate the preventive modification and permanent repair only for airplanes having line numbers 1433 through 1832 inclusive, identified as Group 2 airplanes in Boeing Service Bulletin 727–53–0149, Revision 4, dated June 27, 1991.

Boeing Service Bulletin 727–53–0149, Revision 4, dated June 27, 1991, includes the preventive modification as optional terminating action for the repetitive inspections included in that service bulletin. This proposed AD would mandate accomplishment of the permanent repair or preventive modification (depending on the inspection findings) as part of the actions identified by the 727 Aging Fleet Structures Working Group as being necessary to support an airplane reaching its LOV.

Costs of Compliance

We estimate that this proposed AD affects 106 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	2 work-hours × $85 per hour = $170	$0	$170	$18,020.
Modification/repair	Up to 272 work-hours × $85 per hour = $23,120	5,565	Up to $28,685	Up to $3,040,610.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

(2) Is not a ''significant rule'' under the DOT Regulatory Policies and

Procedures (44 FR 11034, February 26, 1979),

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2013–0545; Directorate Identifier 2013–NM–048–AD.

(a) Comments Due Date

We must receive comments by September 3, 2013.

(b) Affected ADs

This AD affects AD 92–19–11, Amendment 39–8369 (57 FR 53247, November 9, 1992).

(c) Applicability

This AD applies to The Boeing Company Model 727, 727C, 727–100, 727–100C, 727–200, and 727–200F series airplanes, certificated in any category, having line position 1433 through 1832 inclusive, identified as Group 2 airplanes in Boeing Service Bulletin 727–53–0149, Revision 4, dated June 27, 1991.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD is intended to complete certain mandated programs intended to support the airplane reaching its limit of validity (LOV) of the engineering data that support the established structural maintenance program. We are issuing this AD to prevent cracking in the main wheel well pressure floor, which could result in reduced structural integrity of the airplane, and decompression of the cabin.

(f) Compliance

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

(g) Definition of Detailed Inspection

For the purposes of this AD, a detailed inspection is an intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirrors, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate procedures may be required.

(h) Inspection and Repair/Modification

At the later of the times in paragraphs (h)(1) and (h)(2) of this AD: Do a one-time detailed, high frequency eddy current (HFEC), or dye penetrant inspection for cracks in the main wheel well pressure floor at body stations 930, 940, and 950, between left and right buttock line 50 and the side of the airplane body, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 727–53–0149, Revision 4, dated June 27, 1991.

(1) Prior to the accumulation of 60,000 total flight cycles, or

(2) Within 2,500 flight cycles or 2 years after the effective date of this AD, whichever occurs first.

(i) Preventive Modification

If no cracks are found during the inspection required by paragraph (h) of this AD: Before further flight, do the preventive modification, in accordance with Part IV of the Accomplishment Instructions of Boeing Service Bulletin 727–53–0149, Revision 4, dated June 27, 1991. Doing the preventive modification terminates the repetitive inspections required by paragraph (d) of AD 92–19–11, Amendment 39–8369 (57 FR 53247, November 9, 1992).

(j) Permanent Repair

If any crack is found during the inspection required by paragraph (h) of this AD: Before further flight, do the permanent repair, in accordance with Part III of the Accomplishment Instructions of Boeing Service Bulletin 727–53–0149, Revision 4, dated June 27, 1991. Doing the permanent repair terminates the repetitive inspections required by paragraph (d) of AD 92–19–11, Amendment 39–8369 (57 FR 53247, November 9, 1992).

Note (1) to paragraph (h) of this AD: If a detailed inspection is performed, stripping the paint will help ensure accurate inspection results.

(k) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (h) of this AD, if those actions were performed before the effective date of this AD using Boeing Service Bulletin 727–53–0149, Revision 3, dated November 2, 1989.

(l) Alternative Methods of Compliance (AMOCs)

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

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

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

(m) Related Information

(1) For more information about this AD, contact Galib Abumeri, Aerospace Engineer, Airframe Branch, ANM 120L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Blvd., Suite 100, Lakewood, CA 90712 4137; phone: 562–627–5324; fax: 562–672–5210; email: *galib.abumeri@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98057–3356. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on July 2, 2013.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–17252 Filed 7–17–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 147

[Docket No. USCG–2013–0070]

RIN 1625–AA00

Safety Zone; Olympus Tension Leg Platform, Mississippi Canyon Block 807, Outer Continental Shelf on the Gulf of Mexico

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a safety zone around the Olympus Tension Leg Platform, Mississippi Canyon Block 807 on the

OCS. The purpose of the safety zone is to promote the safety of life and property on the facilities, their appurtenances and attending vessels, and on the adjacent waters within the safety zones. Placing a safety zone around the facility will significantly reduce the threat of allisions, oil spills, and releases of natural gas, and thereby protect the safety of life, property, and the environment.

DATES: Comments and related material must be received by the Coast Guard on or before August 19, 2013.

ADDRESSES: You may submit comments identified by docket number using any one of the following methods:

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

(2) *Fax:* 202–493–2251.

(3) *Mail or Delivery:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202–366–9329. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Rusty Wright, U.S. Coast Guard, District Eight Waterways Management Branch; telephone 504–671–2138, *rusty.h.wright@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
USCG United States Coast Guard
FR Federal Register
NPRM Notice of Proposed Rulemaking
OCS Outer Continental Shelf

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

1. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at *http://www.regulations.gov,* or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* type the docket number [USCG–2013–0070] in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking.

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 and may change the rule based on your comments.

2. 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,* type the docket number (USCG–2013–0070) in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

4. Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one, using one of the methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

B. Basis and Purpose

Coast Guard regulations permit the establishment of safety zones for facilities located on the OCS for the purpose of protecting life, property and the marine environment (33 CFR 147.1). Placing a safety zone around the facility will significantly reduce the threat of allisions, oil spills, and releases of natural gas, and thereby protect the safety of life, property, and the environment. The authority for this rule is 14 U.S.C. 85, 43 U.S.C. 1333, and Department of Homeland Security Delegation No. 0170.1. The purpose of the proposed rule is to protect life, property and the marine environment.

Shell Exploration and Production Company requested that the Coast Guard establish a safety zone around the Olympus Tension Leg Platform facility. The request for the safety zone was made due to safety concerns for vessels operating in the area and the environment. Shell Exploration and Production Company indicated that it is highly likely that any allision with the facility would result in a catastrophic event. In evaluating this request, the Coast Guard explored relevant safety factors and considered several criteria, including but not limited to, (1) The level of shipping activity around the facility, (2) safety concerns for personnel aboard vessels operating in the area and onboard the facility, (3) concerns for the environment, (4) the possibility that an allision would result in a catastrophic event based on proximity to shipping fairways, offloading operations, production levels, and size of the crew, (5) the volume of traffic in the vicinity of the proposed area, (6) the types of vessels navigating in the vicinity of the proposed area, and (7) the structural configuration of the facility.

C. Discussion of Proposed Rule

Results from a thorough and comprehensive examination of the criteria, International Maritime Organization guidelines, and existing regulations warrant the establishment of a safety zone of 500 meters around the facility. The proposed regulation would reduce significantly the threat of allisions, oil spills, and releases of natural gas and increase the safety of life, property, and the environment in the Gulf of Mexico by prohibiting entry into the zone unless specifically authorized by the Commander, Eighth Coast Guard District.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. This rule is not a significant regulatory action due to the location of the Olympus Tension Leg Platform on the OCS and its distance from both land and safety fairways. Vessels traversing waters near the proposed safety zone will be able to safely travel around the zone without incurring additional costs.

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered the impact of this proposed rule on small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities. This safety zone will not have a significant economic impact or a substantial number of small entities for the following reasons: This rule will enforce a safety zone around a facility that is in an area of the Gulf of Mexico not frequented by vessel traffic and is not in close proximity to a safety fairway. Further, vessel traffic can pass safely around the safety zone without incurring additional costs.

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

3. Assistance for Small Entities

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

4. Collection of Information

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

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and determined that this rule does not have implications for federalism.

6. 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.

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

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

10. Protection of Children From Environmental Health Risks

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This proposed rule is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and

have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves the establishment of a safety zone around an OCS Facility to protect life, property and the marine environment. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 147

Continental shelf, Marine safety, Navigation (water).

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 147 as follows:

PART 147—SAFETY ZONES

■ 1. The authority citation for part 147 continues to read as follows:

Authority: 14 U.S.C. 85; 43 U.S.C. 1333; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 147.848 to read as follows:

§ 147.848 Olympus Tension Leg Platform Safety Zone

(a) Description. The Olympus Tension Leg Platform is in the deepwater area of the Gulf of Mexico in Mississippi Canyon Block 807B. The facility is located at 28°9′35.59″ N, 89°14′20.86″ W. The area within 500 meters (1640.4 feet) from each point on the structure's outer edge and the area within 500 meters (1640.4 feet) of each of the supply boat mooring buoys is a safety zone.

(b) Regulation. No vessel may enter or remain in this safety zone except the following:

(1) An attending vessel;

(2) A vessel under 100 feet in length overall not engaged in towing; or

(3) A vessel authorized by the Commander, Eighth Coast Guard District or a designated representative.

Dated: June 28, 2013.

T.A. Sokalzuk,

Captain, U.S. Coast Guard, Acting Commander, Eighth Coast Guard District.

[FR Doc. 2013–17241 Filed 7–17–13; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2012–0760; FRL–9835–2]

Revision to the Washington State Implementation Plan; Approval of Motor Vehicle Emission Budgets and Determination of Attainment for the 2006 24-Hour Fine Particulate Standard; Tacoma-Pierce County Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve a request submitted by the Washington Department of Ecology (Ecology) dated November 28, 2012, to establish motor vehicle emission budgets for the Tacoma-Pierce County Fine Particulate Matter ($PM_{2.5}$) nonattainment area to meet transportation conformity requirements. Under the Clean Air Act (CAA), new transportation plans, programs, and projects, such as the construction of new highways, must ''conform'' to (i.e., be consistent with) the State Implementation Plan (SIP). The CAA requires federal actions in nonattainment and maintenance areas to ''conform to'' the goals of SIP. This means that such actions will not cause or contribute to violations of the National Ambient Air Quality Standards (NAAQS), worsen the severity of an existing violation, or delay timely attainment of any NAAQS or any interim milestone.

Under the Transportation Conformity Rule, the EPA can approve motor vehicle emission budgets based on the most recent year of clean data if the EPA approves the request in the rulemaking that determines that the area has attained the NAAQS for which the area is designated nonattainment. In September 2012, the EPA finalized an attainment finding for the Tacoma-Pierce County $PM_{2.5}$ nonattainment area (hereafter referred to as ''Tacoma-Pierce County Area'' or ''the area''). This finding, also called a clean data determination, was based upon quality-assured, quality-controlled, and certified ambient air monitoring data showing that the area had monitored attainment of the 2006 $PM_{2.5}$ NAAQS based on the 2009–2011 data available in the EPA's Air Quality System database. This action proposes to update the previous finding of attainment with more recent 2010–2012 data and proposes to approve motor vehicle emission budgets under the Transportation Conformity Rule.

DATES: Written comments must be received on or before August 19, 2013.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2012–0760, by any of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- Email: *R10-Public_Comments@epa.gov.*
- Mail: Jeff Hunt, EPA Region 10, Office of Air, Waste and Toxics (AWT–107), 1200 Sixth Avenue, Suite 900, Seattle, WA 98101.
- Hand Delivery/Courier: EPA Region 10, 1200 Sixth Avenue, Suite 900, Seattle, WA 98101. Attention: Jeff Hunt, Office of Air, Waste and Toxics, AWT–107. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R10–OAR–2012–0760. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which 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 EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Office of Air, Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt at telephone number: (206) 553–0256, email address: *hunt.jeff@epa.gov,* or the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

The following outline is provided to aid in locating information in this preamble.

I. Background
II. Description of Attainment Year (Clean Data) MVEBs
III. Analysis of the Relevant Air Quality Data
IV. Effect of Determination of Attainment for 2006 $PM_{2.5}$ Under Subpart 4
V. Application of the Clean Data Policy to Attainment-Related Provisions of Subpart 4
VI. Proposed Action
VII. Statutory and Executive Order Reviews

I. Background

The 2006 $PM_{2.5}$ NAAQS set forth at 40 CFR 50.13 became effective on December 18, 2006 and promulgated a 24-hour standard of 35 micrograms per cubic meter (μg/m^3) based on a 3-year average of the 98th percentile of 24-hour concentration (71 FR 61144, October 17, 2006). Effective December 14, 2009, the EPA designated Tacoma-Pierce County (partial county designation) as a nonattainment area for the 2006 24-hour $PM_{2.5}$ standard (74 FR 58688, November 13, 2009). Under 40 CFR 51.1002, states were required to submit within three years of the effective date of a nonattainment designation a revision to the SIP that meets nonattainment planning requirements. Prior to Washington's SIP revision submittal, the EPA issued a proposed finding of attainment on July 5, 2012, also called a clean data determination, based upon certified ambient air monitoring data showing that the Tacoma-Pierce County Area had met the 2006 $PM_{2.5}$ NAAQS for the most recent 2009–2011 monitoring period (77 FR 39657). The EPA received no comments on the proposal and issued a final finding of attainment on September 4, 2012 (77 FR 53772). In accordance with 40 CFR 51.1004(c), in effect at that time, the September 4, 2012 finding of attainment suspended the requirements for Washington to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and most other planning SIP revisions related to attainment of the standard for so long as the nonattainment area continues to meet the 2006 $PM_{2.5}$ NAAQS. However, a finding of attainment does not suspend the CAA section 176(c) obligation to meet transportation conformity requirements.

As described in 40 CFR 93.109(c)(5) of the Transportation Conformity Rule, a state may request that motor vehicle emissions budgets (MVEBs) calculated for the most recent year of attainment be used to satisfy the budget test as set forth in 40 CFR 93.118. Under this option, the EPA approves the MVEBs request in a rulemaking that determines the area has attained the NAAQS for which the area is designated nonattainment. In this action, the EPA is reaffirming the previous finding of attainment with updated 2010–2012 data and is proposing to approve MVEBs under 40 CFR 93.109(c)(5)(iii) for the Tacoma-Pierce County Area.

II. Description of Attainment Year (Clean Data) MVEBs

The Transportation Conformity Rule allows the state air quality agency to request that motor vehicle emissions in the most recent year of clean data be used as budgets. The EPA must approve that request in the rulemaking that determines that the area has attained the relevant NAAQS (40 CFR 93.109(c)(5)(iii)). On November 28, 2012, Ecology requested that the EPA establish MVEBs for $PM_{2.5}$ and nitrogen oxide (NO_X) calculated for 2011, the first year of attainment for the Tacoma-Pierce County Area. These budgets were calculated using the Motor Vehicle Emissions Simulator emissions model (MOVES). See ''Policy Guidance on the Use of MOVES2010 and Subsequent Minor Model Revisions for State Implementation Plan Development, Transportation Conformity, and Other Purposes'' (EPA, April 2012).

Under the Transportation Conformity Rule, 40 CFR 93.102(b)(1) and (2)(iv) and (v), only MVEBs for $PM_{2.5}$ and NO_X for the 2011 attainment year are applicable for meeting conformity requirements in the Tacoma-Pierce County Area. The Transportation Conformity Rule requires that MVEBs must address direct $PM_{2.5}$ emissions. NO_X emissions must also be included unless the EPA and state have made a finding that transportation-related emissions of NO_X are not a significant contributor to the area's $PM_{2.5}$ problem. There was no such finding in this case. Therefore, Ecology requested that MVEBs be established for on-road emissions of direct $PM_{2.5}$ and NO_X.

Under the Transportation Conformity Rule, $PM_{2.5}$ precursors volatile organic compounds (VOCs), sulfur dioxide (SO_2) and ammonia (NH_3) must be addressed before a SIP is submitted if either the EPA or the state air agency makes a finding that on-road emissions of any of these precursors is a significant contributor to the area's $PM_{2.5}$ problem. Neither the EPA nor Ecology has made such a finding with regard to any of these precursors. Therefore, consistent with the Transportation Conformity Rule, the State did not request that MVEBs be established for VOCs, SO_2 or NH_3.

The EPA promulgated conformity regulations to implement the 1997 $PM_{2.5}$ NAAQS in July 2004 and May 2005 (69 FR 40004, July 1, 2004 and 70 FR 24280, May 6, 2005). Subsequently, the EPA promulgated conformity regulations to implement the 2006 $PM_{2.5}$ NAAQS in March 2010 (75 FR 14260, March 24, 2010). Those actions were not part of the final rules remanded to the EPA by the Court of Appeals for the District of Columbia in *Natural Resources Defense Council* v. *EPA,* 706 F.3d 428 (D.C. Cir. 2013) (*NRDC* v. *EPA*). The Court remanded to the EPA the ''Final Clean Air Fine Particle Implementation Rule'' (72 FR 20586; April 25, 2007) and the ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers ($PM_{2.5}$)'' final rule (73 FR 28321, May 16, 2008) (collectively, ''1997 $PM_{2.5}$ Implementation Rule'' or ''Implementation Rule'') because it concluded that the EPA must implement the $PM_{2.5}$ NAAQS pursuant to the PM-specific provisions of subpart 4 of part D of title I of the CAA, rather than solely under the general provisions of subpart 1. This decision does not affect the EPA's proposed approval of the Tacoma-Pierce County MVEBs. The EPA's conformity rules implementing the $PM_{2.5}$ NAAQS were separate actions from the overall $PM_{2.5}$ implementation rule addressed by the Court and were not considered or disturbed by the decision. Therefore, the conformity regulations were not at issue in *NRDC* v. *EPA.*[1]

[1] The 2004 rulemaking addressed most of the transportation conformity requirements that apply in $PM_{2.5}$ nonattainment and maintenance areas. The 2005 conformity rule included provisions addressing treatment of $PM_{2.5}$ precursors in MVEBs. *See* 40 CFR 93.102(b)(2). The 2010 rulemaking

The Transportation Conformity Rule's adequacy criteria at 40 CFR 93.118(e)(4)(i)–(v) are not directly applicable because they apply to budgets that are part of a SIP submittal and the budgets that are under review in this action were submitted under the Transportation Conformity Rule provision that allows a state to request that budgets be established through the EPA's clean data determination process. However, these criteria establish a general framework for the review of any MVEBs before those budgets are made effective for use in transportation conformity determinations. For this reason, the EPA has reviewed the direct $PM_{2.5}$ and NO_X MVEBs submitted by the State by applying the general requirements of the criteria.

Briefly, our review has determined:

- The request to establish these budgets was made by the appropriate State official (letter addressed to Dennis M. McLerran, Regional Administrator, EPA Region 10, from Ted Sturdevant, Director, Washington State Department of Ecology, November 28, 2012, included in the docket for this action).
- The request for establishment of MVEBs underwent full interagency consultation including consultation with representatives from the following agencies: EPA, Federal Highway Administration, Federal Transit Administration, Washington State Department of Transportation, Puget Sound Clean Air Agency, and Puget Sound Regional Council. All meetings of the interagency air quality consultation partners were open to the public, and the EPA raised no concerns with the MVEBs or calculation methodology as part of the consultation process.
- As shown below in Table 1, the budgets are clearly identified and precisely quantified.
- The budgets are consistent with attainment of the 2006 24-hour $PM_{2.5}$ NAAQS as they have been established for 2011, which was the most recent year of clean data available at the time the submittal was made in November 2012, and the area was attaining the for the 2009–2011 period.
- The budgets are based on results from the EPA's approved motor vehicle emission factor model, MOVES2010b. The modeling analyses are based on the most recent planning information for the area and include consideration of all relevant national regulations as well as all previously established local transportation control measures.

TABLE 1—2011 MOTOR VEHICLE EMISSION BUDGETS FOR THE TACOMA-PIERCE COUNTY 2006 FINE PARTICULATE MATTER NONATTAINMENT AREA

Pollutant	Emissions (pounds per winter day)
$PM_{2.5}$	3,002
NO_X	71,598

III. Analysis of the Relevant Air Quality Data

The EPA has reviewed the ambient air monitoring data for $PM_{2.5}$, consistent with the requirements contained in 40 CFR part 50 for the Tacoma-Pierce County Area. All data considered have been recorded in the Air Quality System (AQS) database, certified as meeting quality assurance requirements, and determined to have met data completeness requirements. On the basis of this review, the EPA has concluded that the area continued to attain the 2006 24-hour $PM_{2.5}$ NAAQS during the 2010–2012 monitoring period. The EPA regulations at 40 CFR 50.7 provide that ''The 24-hour primary and secondary $PM_{2.5}$ standards are met when the 98th percentile 24-hour concentration, as determined in accordance with appendix N of this part, is less than or equal to 35 μg/m3.'' This calculation, made in accordance with 40 CFR part 50, appendix N for determining compliance with the 2006 24-hour $PM_{2.5}$ NAAQS, is commonly called a design value. Because the 2010–2012 design value at the Federal Reference Method monitor (Tacoma South L Street) is 28 $\mu g/m^3$, the EPA is proposing to determine that the area continues to have monitored attainment for this NAAQS. Additional information about design values for the Tacoma-Pierce County Area can be found at *http://www.epa.gov/airtrends/values.html.*

IV. Effect of Determination of Attainment for 2006 $PM_{2.5}$ Under Subpart 4

This section of the EPA's proposal addresses the effects of a final determination of attainment for the Tacoma-Pierce County Area. For the 1997 $PM_{2.5}$ standard, 40 CFR 51.004 of the EPA's Implementation Rule sets forth the EPA's ''Clean Data Policy'' interpretation under subpart 1 and the effects of a determination of attainment with that standard (72 FR 20585, 20665, April 25, 2007). While the regulatory provisions of § 51.1004(c) do not explicitly apply to the 2006 $PM_{2.5}$ standard, the underlying statutory interpretation is the same for both standards. See 77 FR 76427, December 28, 2012 (proposed determination of attainment for the 2006 $PM_{2.5}$ standard for Milwaukee, Wisconsin).

As noted above, the D.C. Circuit Court of Appeals recently remanded to the EPA the 1997 $PM_{2.5}$ Implementation Rule. The Court directed the EPA to re-promulgate the 1997 $PM_{2.5}$ Implementation Rule consistent with the Court's opinion. *NRDC* v. *EPA,* 706 F.3d 428. The Court found that the EPA erred in limiting implementation of the 1997 $PM_{2.5}$ NAAQS to the general implementation provisions of subpart 1 of part D of title I of the CAA, rather than the particulate-matter-specific provisions of subpart 4 of part D of title I. In light of the remand of the Implementation Rule, in the immediate action, the EPA addresses the effect of a final determination of attainment for the Tacoma-Pierce County Area, assuming the area is classified as a moderate nonattainment area under subpart 4.[2] As set forth in more detail below, under the EPA's Clean Data Policy, a determination that the area has attained the standard suspends the State's obligation to submit attainment-related planning requirements of subpart 4 (and the applicable provisions of subpart 1) so long as the area continues to attain the standard. The suspended requirements include submission of an attainment demonstration (CAA section 189(a)(1)(B)), meeting quantitative milestones demonstrating reasonable further progress (RFP) toward attainment by the applicable attainment date (CAA section 189(c)), provisions for reasonably available control measures (RACM) (CAA section 189(a)(1)(C)), and contingency measures (CAA section 172(c)(9). These requirements are suspended because

addressed requirements for the 2006 $PM_{2.5}$ NAAQS. While none of these provisions were challenged in the *NRDC* v. *EPA* case, the EPA also notes that the court declined to address challenges to the EPA's presumptions regarding $PM_{2.5}$ precursors in the $PM_{2.5}$ implementation rule. *NRDC* v. *EPA,* 706 F.3d 437.

[2] For the purposes of evaluating the effects of this proposed determination of attainment under subpart 4, we are considering the Tacoma-Pierce County Area to be a ''moderate'' $PM_{2.5}$ nonattainment area. Under section 188 of the CAA, all areas designated nonattainment areas under subpart 4 would initially be classified by operation of law as ''moderate'' nonattainment areas, and would remain moderate nonattainment areas unless and until the EPA reclassifies the area as a ''serious'' nonattainment area or the area fails to attain the standard by the attainment date and would be reclassified to ''serious'' by operation of law. Accordingly, the EPA believes that it is appropriate to limit the evaluation of the potential impact of subpart 4 requirements to those that would be applicable to moderate nonattainment areas. In addition, in reviewing Ecology's submittal the EPA also evaluates the applicable requirements of subpart 1.

their purpose is to help reach attainment, a goal which the Tacoma-Pierce County Area has already achieved.

Background on Clean Data Policy

Over the past two decades, the EPA has consistently applied its ''Clean Data Policy'' to attainment-related provisions of subparts 1, 2 and 4. The Clean Data Policy is the subject of several EPA memoranda and regulations. In addition, numerous individual rulemakings published in the **Federal Register** have applied the policy to a spectrum of NAAQS, including the ozone, PM_{10}, $PM_{2.5}$, CO and lead standards. The D.C. Circuit Court of Appeals has upheld the Clean Data Policy as embodied in the EPA's 8-hour ozone Implementation Rule, 40 CFR 51.918.[3] See *NRDC* v. *EPA,* 571 F. 3d 1245 (D.C. Cir. 2009). Other federal Courts of Appeals that have considered and reviewed the EPA's Clean Data Policy interpretation have upheld it and the rulemakings applying the EPA's interpretation. *Sierra Club* v. *EPA,* 99 F.3d 1551 (10th Cir. 1996); *Sierra Club* v. *EPA,* 375 F. 3d 537 (7th Cir. 2004); *Our Children's Earth Foundation* v. *EPA,* N. 04–73032 (9th Cir. June 28, 2005) (memorandum opinion), *Latino Issues Forum,* v. *EPA,* Nos. 06–75831 and 08–71238 (9th Cir.), Memorandum Opinion, March 2, 2009.

As noted above, the EPA incorporated its Clean Data Policy interpretation in both its 1997 8-hour Ozone Implementation Rule and in its $PM_{2.5}$ Implementation Rule in 40 CFR 51.1004(c) (72 FR 20585, 20665; April 25, 2007). While the D.C. Circuit Court of Appeal, in its January 4, 2013 opinion, remanded to the EPA the 1997 $PM_{2.5}$ Implementation Rule, the Court's opinion did not address the merits of that regulation, nor cast doubt on EPA's existing interpretation of the statutory provisions.

However, in light of the Court's opinion, we set forth here the EPA's Clean Data Policy interpretation under subpart 4, for the purpose of identifying the effects of a determination of attainment for the 2006 $PM_{2.5}$ standard for the Tacoma-Pierce County Area. The EPA has previously articulated its Clean Data Policy interpretation under subpart 4 in implementing the PM_{10} standard. See, e.g., 75 FR 27944, May 19, 2010 (determination of attainment of the PM–10 standard in Coso Junction, California); 75 FR 6571, February 10, 2010; 71 FR 6352, February 8, 2006 (Ajo, Arizona area); 71 FR 13021, March 14, 2006 (Yuma, Arizona area); 71 FR 40023, July 14, 2006 (Weirton, West Virginia area); 71 FR 44920, August 8, 2006 (Rillito, Arizona area); 71 FR 63642, October 30, 2006 (San Joaquin Valley, California area); 72 FR 14422, March 28, 2007 (Miami, Arizona area); 75 FR 27944, May 19, 2010 (Coso Junction, California area). In these determinations the EPA has established that, under subpart 4, an attainment determination suspends the obligations to submit an attainment demonstration, RACM, RFP contingency measures, and other measures related to attainment.

V. Application of the Clean Data Policy to Attainment-Related Provisions of Subpart 4

In the EPA's proposed and final rulemakings determining that the San Joaquin Valley nonattainment area attained the PM_{10} standard, the EPA set forth at length its rationale for applying our interpretation of the Clean Data Policy to PM_{10} under subpart 4. The Ninth Circuit upheld the EPA's final rulemaking, and specifically the EPA's application of the Clean Data Policy, in the context of subpart 4. *Latino Issues Forum* v. *EPA,* supra. Nos. 06–75831 and 08–71238 (9th Cir.), Memorandum Opinion, March 2, 2009. In rejecting the petitioner's challenge to the Clean Data Policy under subpart 4 for PM_{10}, the Ninth Circuit stated, ''As the EPA explained, if an area is in compliance with PM_{10} standards, then further progress for the purpose of ensuring attainment is not necessary.''

The general requirements of subpart 1 apply in conjunction with the more specific requirements of subpart 4 to the extent they are not superseded or subsumed by the subpart 4 requirements. Subpart 1 contains general air quality planning requirements for areas designated as nonattainment. See CAA section 172(c). Subpart 4 itself contains specific planning and scheduling requirements for PM_{10} nonattainment areas, and under the Court's January 4, 2013 opinion in *NRDC* v. *EPA,* these same statutory requirements also apply to $PM_{2.5}$ nonattainment areas. The EPA has longstanding general guidance interpreting the 1990 amendments to the CAA, for use by states in meeting the statutory requirements for SIPs for nonattainment areas. See, ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clear Air Act Amendments of 1990,'' (57 FR 13498, April 16, 1992) (the ''General Preamble''). In the General Preamble, the EPA discussed the relationship of subpart 1 and subpart 4 SIP requirements, and pointed out that subpart 1 requirements were to an extent ''subsumed by, or integrally related to, the more specific PM_{10} requirements.'' 57 FR 13538, April 16, 1992. These subpart 1 requirements include, among other things, provisions for attainment demonstrations, RACM, RFP, emissions inventories, and contingency measures.

The EPA has long interpreted the provisions of part D, subpart 1 of the Act (sections 171 and 172) as not requiring the submission of RFP for an area already attaining the NAAQS. For an area that is attaining, showing that the state will make RFP towards attainment ''will, therefore, have no meaning at that point.'' (57 FR at 13564). See 71 FR 40952 and 71 FR 63642 (proposed and final determination of attainment for San Joaquin Valley); 75 FR 13710 and 75 FR 27944 (proposed and final determination of attainment for Coso Junction). CAA section 189(c)(1) of subpart 4 states that:

> Plan revisions demonstrating attainment submitted to the Administrator for approval under this subpart shall contain quantitative milestones which are to be achieved every 3 years until the area is redesignated attainment and which demonstrate reasonable further progress, as defined in section [section 171(1)] of this title, toward attainment by the applicable date.

With respect to RFP, CAA section 171(1) states that, for purposes of part D, RFP ''means such annual incremental reductions in emissions of the relevant air pollutant as are required by this part or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable NAAQS by the applicable date.'' Thus, whether dealing with the general RFP requirement of CAA section 172(c)(2), the ozone-specific RFP requirements of CAA sections 182(b) and (c), or the specific RFP requirements for PM_{10} areas of part D, subpart 4, CAA section 189(c)(1), the stated purpose of RFP is to ensure attainment by the applicable attainment date.

The General Preamble, states that with respect to CAA section 189(c) that the purpose of the milestone requirement ''is to provide for emission reductions adequate to achieve the standards by the applicable attainment date (H.R. Rep. No. 490 101st Cong., 2d Sess. 267 (1990)).'' 57 FR 13539. If an area has in fact attained the standard, the stated purpose of the RFP

[3] ''EPA's Final Rule to implement the 8-hour Ozone National Ambient Air Quality Standard—Phase 2 (Phase 2 Final Rule)''. 70 FR 71612, 71645–46, November 29, 2005.

requirement will have already been fulfilled.[4]

Similarly, the requirements of CAA section 189(c)(2) with respect to milestones no longer apply so long as an area has attained the standard. CAA section 189(c)(2) provides in relevant part that:

> Not later than 90 days after the date on which a milestone applicable to the area occurs, each State in which all or part of such area is located shall submit to the Administrator a demonstration . . . that the milestone has been met.

Where the area has attained the standard and there are no further milestones, there is no further requirement to make a submission showing that such milestones have been met. This is consistent with the position that the EPA took with respect to the general RFP requirement of CAA section 172(c)(2) in the April 16, 1992 General Preamble and also in the May 10, 1995 Seitz memorandum with respect to the requirements of CAA section 182(b) and (c). In the May 10, 1995 Seitz memorandum, titled ''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Meeting the Ozone National Ambient Air Quality Standard,'' the EPA also noted that CAA section 182(g), the milestone requirement of subpart 2, which is analogous to provisions in CAA section 189(c), is suspended upon a determination that an area has attained. The memorandum, also citing additional provisions related to attainment demonstration and RFP requirements, stated:

> Inasmuch as each of these requirements is linked with the attainment demonstration or RFP requirements of section 182(b)(1) or 182(c)(2), if an area is not subject to the requirement to submit the underlying attainment demonstration or RFP plan, it need not submit the related SIP submission either.

1995 Seitz memorandum at 5.

With respect to the attainment demonstration requirements of CAA section 172(c) and section 189(a)(1)(B), an analogous rationale leads to the same result. CAA section 189(a)(1)(B) requires that the plan provide for ''a demonstration (including air quality modeling) that the [SIP] will provide for attainment by the applicable attainment date . . .''. As with the RFP requirements, if an area is already monitoring attainment of the standard, the EPA believes there is no need for an area to make a further submission containing additional measures to achieve attainment. This is also consistent with the interpretation of the CAA section 172(c) requirements provided by the EPA in the General Preamble, the December 14, 2004 Page memorandum titled ''Clean Data Policy for the Fine Particulate National Ambient Air Quality Standards'', and the CAA section 182(b) and (c) requirements set forth in the Seitz memorandum. As the EPA stated in the General Preamble, no other measures to provide for attainment would be needed by areas seeking redesignation to attainment since ''attainment will have been reached.'' 57 FR 13564.

Other SIP submission requirements are linked with these attainment demonstration and RFP requirements, and similar reasoning applies to them. These requirements include the contingency measure requirements of CAA sections 172(c)(9). We have interpreted the contingency measure requirements of CAA sections 172(c)(9)[5] as no longer applying when an area has attained the standard because those ''contingency measures are directed at ensuring RFP and attainment by the applicable date.'' 57 FR 13564; Seitz memorandum, pp. 5–6.

CAA section 172(c)(9) provides that SIPs in nonattainment areas

> shall provide for the implementation of specific measures to be undertaken if the area fails to make reasonable further progress, or to attain the [NAAQS] by the attainment date applicable under this part. Such measures shall be included in the plan revision as contingency measures to take effect in any such case without further action by the State or [EPA].

The contingency measure requirement is inextricably tied to the RFP and attainment demonstration requirements. Contingency measures are implemented if RFP targets are not achieved, or if attainment is not realized by the attainment date. Where an area has already achieved attainment, it has no need to rely on contingency measures to come into attainment or to make further progress to attainment. As the EPA stated in the General Preamble: ''The section 172(c)(9) requirements for contingency measures are directed at ensuring RFP and attainment by the applicable date.'' 57 FR 13564. Thus these requirements no longer apply when an area has attained the standard.

Both CAA sections 172(c)(1) and 189(a)(1)(C) require ''provisions to assure that reasonably available control measures'' (i.e., RACM) are implemented in a nonattainment area. The General Preamble (57 FR 13560) states that the EPA interprets CAA section 172(c)(1) so that RACM requirements are a ''component'' of an area's attainment demonstration. Thus, for the same reason the attainment demonstration no longer applies by its own terms, the requirement for RACM no longer applies. The EPA has consistently interpreted this provision to require only implementation of potential RACM measures that could contribute to reasonable further progress or to attainment. 57 FR 13498. Thus, where an area is already attaining the standard, no additional RACM measures are required.[6] The EPA is interpreting CAA section 189(a)(1)(C) consistent with its interpretation of CAA section 172(c)(1).

The suspension of the obligations to submit SIP revisions concerning these RFP, attainment demonstration, RACM, contingency measures and other related requirements exists only for as long as the area continues to monitor attainment of the standard. If the EPA determines, after notice-and-comment rulemaking, that the area has a monitored violation of the NAAQS, the basis for the requirements being suspended would no longer exist. Only if and when the EPA redesignates the area to attainment would the area be relieved of these submission obligations. Attainment determinations under the Clean Data Policy do not shield an area from obligations unrelated to attainment in the area.

As set forth above, based on our proposed determination that the Tacoma-Pierce County Area has attained the 2006 24-hour $PM_{2.5}$ NAAQS, we propose to find that the obligations to submit planning provisions to meet the requirements for an attainment demonstration, RFP, RACM, and

[4] Thus, we believe that it is a distinction without a difference that section 189(c)(1) speaks of the RFP requirement as one to be achieved until an area is ''redesignated attainment,'' as opposed to section 172(c)(2), which is silent on the period to which the requirement pertains, or the ozone nonattainment area RFP requirements in sections 182(b)(1) or 182(c)(2), which refer to the RFP requirements as applying until the ''attainment date,'' since section 189(c)(1) defines RFP by reference to section 171(1) of the Act. Reference to section 171(1) clarifies that, as with the general RFP requirements in section 172(c)(2) and the ozone-specific requirements of section 182(b)(1) and 182(c)(2), the PM-specific requirements may only be required ''for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date.'' 42 U.S.C. 7501(1). As discussed in the text of this rulemaking, the EPA interprets the RFP requirements, in light of the definition of RFP in section 171(1), and incorporated in section 189(c)(1), to be a requirement that no longer applies once the standard has been attained.

[5] And section 182(c)(9) for ozone.

[6] The EPA's interpretation that the statute requires implementation only of RACM measures that would advance attainment was upheld by the United States Court of Appeals for the Fifth Circuit (*Sierra Club* v. *EPA,* 314 F.3d 735, 743–745 (5th Cir. 2002), and by the United States Court of Appeals for the D.C. Circuit (*Sierra Club* v. *EPA,* 294 F.3d 155, 162–163 (D.C. Cir. 2002)).

contingency measures continue to be suspended for so long as the area continues to monitor attainment of the 2006 24-hour $PM_{2.5}$ NAAQS. If, in the future, the EPA determines after notice-and-comment rulemaking that the area again violates the 2006 24-hour $PM_{2.5}$ NAAQS, the basis for suspending the attainment demonstration, RFP, RACM, and contingency measure obligations would no longer exist.

VI. Proposed Action

The EPA proposes to determine, based on the most recent three years of complete, quality-assured data meeting the requirements of 40 CFR part 50, appendix N, that the Tacoma-Pierce County Area is currently attaining the 2006 24-hour $PM_{2.5}$ NAAQS. In conjunction with and based upon our proposed determination that Tacoma-Pierce County Area is attaining the standard, the EPA proposes to determine that the obligation to submit the following attainment-related planning requirements are not applicable for so long as the area continues to attain the $PM_{2.5}$ standard: The part D, subpart 4 obligations to provide an attainment demonstration pursuant to CAA section 189(a)(1)(B), the RACM provisions of CAA section 189(a)(1)(C), the RFP provisions of CAA section 189(c), and related attainment demonstration, RACM, RFP and contingency measure provisions requirements of subpart 1, CAA section 172. This proposed action, if finalized, would not constitute a redesignation to attainment under CAA section 107(d)(3). In conjunction with this proposed finding of attainment, the EPA is proposing to approve MVEBs calculated for the 2011 attainment year, the year that the Tacoma-Pierce County first attained the 2006 24-hour $PM_{2.5}$ NAAQS. The EPA is proposing approval of MVEBs pursuant to 40 CFR 93.109(c)(5)(iii), as described in the Transportation Conformity Rule and the preamble of the Transportation Conformity Restructuring Amendments (77 FR 14982, March 14, 2012).

VII. Statutory and Executive Order Reviews

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

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

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it will not impose substantial direct costs on tribal governments or preempt tribal law. The SIP is not approved to apply in Indian country located in the State, except for non-trust land within the exterior boundaries of the Puyallup Indian Reservation, also known as the 1873 Survey Area. Under the *Puyallup Tribe of Indians Settlement Act of 1989,* 25 U.S.C. 1773, Congress explicitly provided State and local agencies in Washington authority over activities on non-trust lands within the 1873 Survey Area and the EPA is therefore approving this SIP on such lands. Consistent with EPA policy, the EPA provided a consultation opportunity to the Puyallup Tribe in a letter dated December 11, 2012. The EPA did not receive a request for consultation.

List of Subjects in 40 CFR Part 52

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

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

Dated: July 8, 2013.

Dennis J. McLerran,

Regional Administrator, Region 10.

[FR Doc. 2013–17267 Filed 7–17–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[EPA–HQ–OEI–2011–0979; FRL–9825–9]

RIN 2025–AA36

Community Right-to-Know; Adoption of 2012 North American Industry Classification System (NAICS) Codes for Toxics Release Inventory (TRI) Reporting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to update the list of North American Industry Classification System (NAICS) codes subject to reporting under the Toxics Release Inventory (TRI) to reflect the Office of Management and Budget (OMB) 2012 NAICS revision. Facilities would be required to use 2012 NAICS codes when reporting to TRI beginning with TRI reporting forms that are due on July 1, 2014, covering releases and other waste management quantities for the 2013 calendar year. In the ''Rules and Regulations'' section of today's **Federal Register**, we are simultaneously publishing the 2012 OMB NAICS revisions for TRI Reporting as a direct final rule without a prior proposed rule. If we receive no adverse comment, we will not take further action on this proposed rule. We will withdraw this proposed rule, and the direct final rule will become effective as specified in that rule. If, however, we do receive adverse comment in response to this proposed rule or in response to the direct final rule, then we will publish a timely withdrawal in the **Federal Register** informing the public that the direct final rule will not take effect. In that case, we would address all public comments in a subsequent final rule based on this proposed rule. We will not institute a second comment period on this action. Any parties interested in

commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

DATES: Comments must be received on or before August 19, 2013.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OEI–2011–0979, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: oei.docket@epa.gov.*
- *Fax:* (202) 566–0715.
- *Mail:* OEI Docket, Environmental Protection Agency, Mailcode 2822T, 1200 Pennsylvania Ave. NW., Washington, DC, 20460.
- *Hand Delivery:* EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC, 20460. Such deliveries are only accepted during the Docket'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–OEI–2011–0979. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information for which 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 EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters or any form of encryption and must be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information for which disclosure is restricted by statute. Certain other materials, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the OEI Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The Public Reading Room is open Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

FOR FURTHER INFORMATION CONTACT: Judith Kendall, Toxics Release Inventory Program Division, Mailcode 2844T, OEI, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Ave. NW., Washington, DC 20460; Telephone: (202) 566–0750; Fax: (202) 566–0715; email: *kendall.judith@epa.gov.* For general information on TRI, contact the Emergency Planning and Community Right-to-Know Hotline at (800) 424–9346 or (703) 412–9810, TDD (800) 553–7672, *http://www.epa.gov/epaoswer/hotline/.*

SUPPLEMENTARY INFORMATION:

I. Why is EPA issuing this proposed rule?

This document proposes to take action to update the list of North American Industry Classification System (NAICS) codes subject to reporting under the Toxics Release Inventory (TRI) to reflect the Office of Management and Budget (OMB) final 2012 NAICS revision (75 FR 26856 and 76 FR 51240). We have published a direct final rule to adopt the OMB 2012 NAICS codes for TRI reporting purposes in the ''Rules and Regulations'' section of this **Federal Register** because we view this as a noncontroversial action and anticipate no adverse comment. We have explained our reasons for this action in the preamble to the direct final rule.

If we receive no adverse comment, we will not take further action on this proposed rule. The proposed rule will be withdrawn, and the direct final rule will become effective as specified in that rule. If, however, we receive adverse comment, we will withdraw the direct final rule and it will not take effect. In that case, we would address all public comments in any subsequent final rule based on this proposed rule.

We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information, please see the information provided in the **ADDRESSES** section of this document.

II. Does this action apply to me?

Entities that may be affected by this action are those facilities that have 10 or more full-time employees or the equivalent 20,000 hours per year that manufacture, process, or otherwise use toxic chemicals listed on the TRI, and that are required under section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) or section 6607 of the Pollution Prevention Act (PPA) to report annually to EPA and States or Tribes their environmental releases or other waste management quantities of covered chemicals. (A rule was published on April 19, 2012 (77 FR 23409), requiring facilities located in Indian country to report to the appropriate tribal government official and EPA instead of to the state and EPA.) Under Executive Order 13423 (January 24, 2007), published in the **Federal Register** on January 26, 2007 (72 FR 3919), all federal facilities are required to comply with the provisions set forth in Section 313 of EPCRA and section 6607 of the PPA. On March 29, 2007, the White House Council on Environmental Quality (CEQ) issued *Instructions for Implementing Executive Order 13423,* including annual reporting to the TRI program. Notice of availability of those implementing instructions was published in the **Federal Register** on June 18, 2007 (72 FR 33504).

To determine whether your facility is affected by this action, you should carefully examine the applicability criteria in Part 372 of Title 40 of the Code of Federal Regulations. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

III. What should I consider as I prepare my comments for EPA?

A. Submitting CBI

If you wish to claim information submitted in a comment to be CBI, it will be handled in accordance with procedures set forth in 40 CFR part 2,

subpart B. If you do not assert a confidentiality claim at the time of submission, the information may be made available to the public by EPA without further notice. See 40 CFR 2.203, 41 FR 36902, September 1, 1976. Do not submit this information to EPA through *www.regulations.gov* or email. Clearly mark the specific information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2.

B. Tips for Preparing Your Comments

When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

IV. What is EPA's statutory authority for taking this action?

EPA is taking this action under sections 313(g)(1) and 328 of EPCRA, 42 U.S.C. 11023(g)(1) and 11048. EPCRA is also referred to as Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA) (Pub. L. 99–499). In general, section 313 of EPCRA requires owners and operators of covered facilities in specified Standard Industrial Classification (SIC) codes that manufacture, process, or otherwise use a listed toxic chemical in amounts above specified threshold levels to report certain facility specific information about such chemicals, including the annual releases and other waste management quantities. Section 313(g)(1) of EPCRA requires EPA to publish a uniform toxic chemical release form for these reporting purposes, and it also prescribes, in general terms, the types of information that must be submitted on the form. Section 313(g)(1)(A) requires owners and operators of facilities that are subject to section 313 requirements to report the principal business activities at the facilities. Congress also granted EPA broad rulemaking authority to allow the Agency to fully implement the statute. EPCRA section 328 states that: ''The Administrator may prescribe such regulations as may be necessary to carry out this chapter.'' 42 U.S.C. 11048.

Consistent with these authorities, on June 6, 2006, EPA amended 40 CFR Part 372 to include the 2002 NAICS codes that correspond to the SIC codes that are currently subject to section 313 of EPCRA and section 6607 of the PPA (71 FR 32464). On June 9, 2008 (73 FR 32466), EPA amended 40 CFR Part 372 to include the 2007 NAICS codes that correspond to the SIC codes that are currently subject to section 313 of EPCRA and section 6607 of the PPA. This proposed action would amend 40 CFR Part 372 to include OMB's revised NAICS codes for 2012.

Owners and operators of facilities that are subject to section 313 would need to use 2012 NAICS codes when identifying their principal business activities beginning with TRI reporting forms that are due on July 1, 2014, covering releases and other waste management quantities at the facility for the 2013 calendar year.

V. Background Information

What is the general background for this action?

EPA promulgated a final TRI NAICS rule on June 6, 2006, to amend its regulations for TRI, found at 40 CFR Part 372, to include NAICS codes in addition to SIC codes. The list of TRI NAICS codes that appeared in the final rule was developed from the OMB 2002 NAICS revision. EPA updated the list of TRI NAICS codes in 2008 (73 FR 32466), to incorporate changes to the TRI NAICS codes resulting from the OMB 2007 NAICS revision.

The Office of Management and Budget (OMB) revises North American Industry Classification Codes every five years. An OMB **Federal Register** notice published on May 12, 2010 (75 FR 26856), announced updated NAICS codes for 2012, and a second OMB **Federal Register** notice published on Aug. 17, 2011 (76 FR 51240), finalized and further modified the NAICS codes for 2012.

VI. Proposed Action

A. What is the agency proposing?

EPA would amend 40 CFR Part 372 to include 2012 NAICS codes for TRI reporting that accurately reflect the universe of covered facilities under section 313 of EPCRA and section 6607 of the PPA.

B. Would the proposal change the universe of facilities that are currently required to report to EPA and the States?

Today's proposal of updating the list of NAICS codes to reflect the 2012 OMB NAICS revision would not change the universe of facilities that are currently required to report to EPA and the States.

C. How would Section 313 reporting requirements change as a result of this proposed rule?

TRI reporting requirements would not change as a result of this proposed rule. This proposed rule would simply revise the NAICS codes to reflect the OMB NAICS 2012 revision.

VII. Which TRI-covered NAICS codes have been modified under this proposed rule?

The Office of Management and Budget (OMB) revises North American Industry Classification Codes every five years. An OMB **Federal Register** notice published on May 12, 2010 (75 FR 26856), announced updated NAICS codes for 2012, and a second OMB **Federal Register** notice published on August 17, 2011 (76 FR 51240), finalized and further modified the NAICS codes for 2012. All facilities that are currently required to report to TRI would still be required to report, and facilities that are not currently required to file TRI reports to the Agency would not be required to do so. However, due to the 2012 NAICS modifications, some facilities would need to modify their NAICS codes as outlined in the table below. This table reflects only the revised TRI NAICS reporting codes. A complete table of all TRI NAICS reporting codes can be found in the regulations at § 372.23.

REVISED TRI 2012 REPORTING CODES

2007 NAICS Code	2007 NAICS and U.S. Description	2012 NAICS Code	2012 NAICS description
221119	Other Electric Power Generation.	221118	Other Electric Power Generation.
311222	Soybean Processing.	311224	Soybean and Other Oilseed Processing.
311223	Other Oilseed Processing.		
311311	Sugarcane Mills.	311314	Cane Sugar Manufacturing.
311312	Cane Sugar Refining.		
311320	Chocolate and Confectionery Manufacturing from Cacao Beans.	311351	Chocolate and Confectionery Manufacturing from Cacao Beans.
311330	Confectionery Manufacturing from Purchased Chocolate.	311352	Confectionery Manufacturing from Purchased Chocolate.
311711	Seafood Canning.	311710	Seafood Product Preparation and Packaging.
311712	Fresh and Frozen Seafood Processing.		
311822	Flour Mixes and Dough Manufacturing from Purchased Flour.	311824	Dry Pasta, Dough, and Flour Mixes Manufacturing from Purchased Flour.
311823	Dry Pasta Manufacturing.		
312210	Tobacco Stemming and Redrying.	312230	Tobacco Manufacturing.
312221	Cigarette Manufacturing.		
312229	Other Tobacco Product Manufacturing.		
313111	Yarn Spinning Mills.	313110	Fiber, Yarn, and Thread Mills.
313112	Yarn Texturizing, Throwing, and Twisting Mills.		
313113	Thread Mills.		
313221	Narrow Fabric Mills.	313220	Narrow Fabric Mills and Schiffli Machine Embroidery.
313222	Schiffli Machine Embroidery.		
313241	Weft Knit Fabric Mills.	313240	Knit Fabric Mills.
313249	Other Knit Fabric and Lace Mills.		
313311	Broadwoven Fabric Finishing Mills.	313310	Textile and Fabric Finishing Mills.
313312	Textile and Fabric Finishing (except Broadwoven Fabric) Mills.		
314121	Curtain and Drapery Mills.	314120	Curtain and Linen Mills.
314129	Other Household Textile Product Mills.		
314911	Textile Bag Mills.	314910	Textile Bag and Canvas Mills.
314912	Canvas and Related Product Mills.		
314991	Rope, Cordage, and Twine Mills.	314994	Rope, Cordage, Twine, Tire Cord, and Tire Fabric Mills.
314992	Tire Cord and Tire Fabric Mills.		
315111	Sheer Hosiery Mills.	315110	Hosiery and Sock Mills.
315119	Other Hosiery and Sock Mills.		
315191	Outerwear Knitting Mills.	315190	Other Apparel Knitting Mills.
315192	Underwear and Nightwear Knitting Mills.		
315211	Men's and Boys' Cut and Sew Apparel Contractors.	315210	Cut and Sew Apparel Contractors.
315212	Women's, Girls', and Infants' Cut and Sew Apparel Contractors.		
315221	Men's and Boys' Cut and Sew Underwear and Nightwear Manufacturing.	315220	Men's and Boys' Cut and Sew Apparel Manufacturing.
315222	Men's and Boys' Cut and Sew Suit, Coat, and Overcoat Manufacturing.		
315223	Men's and Boys' Cut and Sew Shirt (except Work Shirt) Manufacturing.		
315224	Men's and Boys' Cut and Sew Trouser, Slack, and Jean Manufacturing.		
315225	Men's and Boys' Cut and Sew Work Clothing Manufacturing.		
315228	Men's and Boys' Cut and Sew Other Outerwear Manufacturing.		
315231	Women's and Girls' Cut and Sew Lingerie, Loungewear, and Nightwear Manufacturing.	315240	Women's, Girls', and Infants' Cut and Sew Apparel Manufacturing.
315232	Women's and Girls' Cut and Sew Blouse and Shirt Manufacturing.		
315233	Women's and Girls' Cut and Sew Dress Manufacturing.		
315234	Women's and Girls' Cut and Sew Suit, Coat, Tailored Jacket, and Skirt Manufacturing.		
315239	Women's and Girls' Cut and Sew Other Outerwear Manufacturing.		
315291	Infants' Cut and Sew Apparel Manufacturing.		
315292	Fur and Leather Apparel Manufacturing.	315280	Other Cut and Sew Apparel Manufacturing.
315299	All Other Cut and Sew Apparel Manufacturing.		
315991	Hat, Cap, and Millinery Manufacturing.	315990	Apparel Accessories and Other Apparel Manufacturing.
315992	Glove and Mitten Manufacturing.		
315993	Men's and Boys' Neckwear Manufacturing.		

REVISED TRI 2012 REPORTING CODES—Continued

2007 NAICS Code	2007 NAICS and U.S. Description	2012 NAICS Code	2012 NAICS description
315999	Other Apparel Accessories and Other Apparel Manufacturing.		
316211	Rubber and Plastics Footwear Manufacturing.	316210	Footwear Manufacturing.
316212	House Slipper Manufacturing.		
316213	Men's Footwear (except Athletic).		
316214	Manufacturing on Women's Footwear (except Athletic).		
316219	Manufacturing Other Footwear Manufacturing.		
316991	Luggage Manufacturing.	316998	All Other Leather Good and Allied Product Manufacturing.
316993	Personal Leather Good (except Women's Handbag and Purse) Manufacturing.		
316999	All Other Leather Good and Allied Product Manufacturing.		
322213	Setup Paperboard Box Manufacturing.	322219	Other Paperboard Container Manufacturing.
322214	Fiber Can, Tube, Drum, and Similar Products Manufacturing.		
322215	Nonfolding Sanitary Food Container Manufacturing.		
322221	Coated and Laminated Packaging.	322220	Paper Bag and Coated and Treated Paper Manufacturing.
322222	Coated and Laminated Paper Manufacturing.		
322223	Coated Paper Bag and Pouch Manufacturing.		
322224	Uncoated Paper and Multiwall Bag Manufacturing.		
322225	Laminated Aluminum Foil Manufacturing for Flexible Packaging Uses.		
322226	Surface-Coated Paperboard Manufacturing.		
322231	Die-Cut Paper and Paperboard Office Supplies Manufacturing.	322230	Stationery Product Manufacturing.
322232	Envelope Manufacturing.		
322233	Stationery, Tablet, and Related Product Manufacturing.		
323110	Commercial Lithographic Printing.	323111	Commercial Printing (except Screen and Books).
323111	Commercial Gravure Printing).		
323112	Commercial Flexographic Printing.		
323114	Quick Printing.		
323115	Digital Printing.		
323116	Manifold Business Forms Printing.		
323118	Blankbook, Looseleaf Binders, and Devices Manufacturing.		
323119	Other Commercial Printing.		
323121	Tradebinding and Related Work.	323120	Support Activities for Printing.
323122	Prepress Services.		
325131	Inorganic Dye and Pigment Manufacturing.	325130	Synthetic Dye and Pigment Manufacturing.
325132	Synthetic Organic Dye and Pigment Manufacturing.		
325181	Alkalies and Chlorine Manufacturing.	325180	Other Basic Inorganic Chemical Manufacturing.
325182	Carbon Black Manufacturing.		
325188	All Other Basic Inorganic Chemical Manufacturing.		
325191	Gum and Wood Chemical Manufacturing.	325194	Cyclic Crude, Intermediate, and Gum and Wood Chemical Manufacturing.
325192	Cyclic Crude and Intermediate Manufacturing.		
325221	Cellulosic Organic Fiber Manufacturing.	325220	Artificial and Synthetic Fibers and Filaments Manufacturing.
325222	Noncellulosic Organic Fiber Manufacturing.		
326192	Resilient Floor Covering Manufacturing.	326199	All Other Plastics Product Manufacturing.
327111	Vitreous China Plumbing Fixture and China and Earthenware Bathroom Accessories Manufacturing.	327110	Pottery, Ceramics, and Plumbing Fixture Manufacturing.
327112	Vitreous China, Fine Earthenware, and Other Pottery Product Manufacturing.		
327113	Porcelain Electrical Supply Manufacturing.		
327121	Brick and Structural Clay Tile Manufacturing.	327120	Clay Building Material and Refractories Manufacturing.
327122	Ceramic Wall and Floor Tile Manufacturing.		
327123	Other Structural Clay Product Manufacturing.		
327124	Clay Refractory Manufacturing.		
327125	Nonclay Refractory Manufacturing.		
331111	Iron and Steel Mills.	331110	Iron and Steel Mills and Ferroalloy Manufacturing.
331112	Electrometallurgical Ferroalloy Product Manufacturing.		
331311	Alumina Refining.	331313	Alumina Refining and Primary Aluminum Production.
331312	Primary Aluminum Production.		
331316	Aluminum Extruded Product Manufacturing.	331318	Other Aluminum Rolling, Drawing, and Extruding.
331319	Other Aluminum Rolling and Drawing.		

REVISED TRI 2012 REPORTING CODES—Continued

2007 NAICS Code	2007 NAICS and U.S. Description	2012 NAICS Code	2012 NAICS description
331411	Primary Smelting and Refining of Copper.	331410	Nonferrous Metal (except Aluminum) Smelting and Refining.
331419	Primary Smelting and Refining of Nonferrous Metal (except Copper and Aluminum).		
331421	Copper Rolling, Drawing, and Extruding.	331420	Copper Rolling, Drawing, Extruding, and Alloying.
331422	Copper Wire (except Mechanical) Drawing.		
331423	Secondary Smelting, Refining, and Alloying of Copper.		
331521	Aluminum Die-Casting Foundries.	331523	Nonferrous Metal Die-Casting Foundries.
331522	Nonferrous (except Aluminum) Die-Casting Foundries.		
331525	Copper Foundries (except Die-Casting).	331529	Other Nonferrous Metal Foundries (except Die-Casting).
331528	Other Nonferrous Foundries (except Die-Casting).		
332115	Crown and Closure Manufacturing.	332119	Metal Crown, Closure, and Other Metal Stamping (except Automotive).
332116	Metal Stamping.		
332211	Cutlery and Flatware (except Precious) Manufacturing.	332215	Metal Kitchen Cookware, Utensil, Cutlery, and Flatware (except Precious) Manufacturing.
332214	Kitchen Utensil, Pot, and Pan Manufacturing.		
332212	Hand and Edge Tool Manufacturing.	332216	Saw Blade and Handtool Manufacturing.
332213	Saw Blade and Handsaw Manufacturing.		
332611	Spring (Heavy Gauge) Manufacturing.	332613	Spring Manufacturing.
332612	Spring (Light Gauge) Manufacturing.		
332994	Small Arms Manufacturing.	332994	Small Arms, Ordnance, and Ordnance Accessories Manufacturing.
332995	Other Ordnance and Accessories Manufacturing.		
332997	Industrial Pattern Manufacturing.	332999	All Other Miscellaneous Fabricated Metal Product Manufacturing.
332998	Enameled Iron and Metal Sanitary Ware Manufacturing.	332999	All Other Miscellaneous Fabricated Metal Product Manufacturing.
332999	All Other Miscellaneous Fabricated Metal Product Manufacturing.		
333210	Sawmill and Woodworking Machinery Manufacturing pt.	333243	Sawmill, Woodworking, and Paper Machinery Manufacturing.
333291	Paper Industry Machinery Manufacturing.		
333220	Plastics and Rubber Industry Machinery Manufacturing.	333249	Other Industrial Machinery Manufacturing.
333292	Textile Machinery Manufacturing.		
333298	All Other Industrial Machinery Manufacturing.		
333293	Printing Machinery and Equipment Manufacturing.	333244	Printing Machinery and Equipment Manufacturing.
333294	Food Product Machinery Manufacturing.	333241	Food Product Machinery Manufacturing.
333295	Semiconductor Machinery Manufacturing.	333242	Semiconductor Machinery Manufacturing.
333311	Automatic Vending Machine Manufacturing.	333318	Other Commercial and Service Industry Machinery Manufacturing.
333312	Commercial Laundry, Drycleaning, and Pressing Machine Manufacturing.		
333313	Office Machinery Manufacturing.		
333319	Other Commercial and Service Industry Machinery Manufacturing.		
333315	Photographic and Photocopying Equipment Manufacturing.	333316	Photographic and Photocopying Equipment Manufacturing.
334119	Other Computer Peripheral Equipment Manufacturing. *digital camera manufacturing*.		
333411	Air Purification Equipment Manufacturing.	333413	Industrial and Commercial Fan and Blower and Air Purification Equipment Manufacturing.
333412	Industrial and Commercial Fan and Blower Manufacturing.		
333512	Machine Tool (Metal Cutting Types) Manufacturing.	333517	Machine Tool Manufacturing.
333513	Machine Tool (Metal Forming Types) Manufacturing.		
333516	Rolling Mill Machinery and Equipment Manufacturing.	333519	Rolling Mill and Other Metalworking Machinery Manufacturing.
333518	Other Metalworking Machinery Manufacturing.		
334113	Computer Terminal Manufacturing.	334118	Computer Terminal and Other Computer Peripheral Equipment Manufacturing.
334119	Other Computer Peripheral Equipment Manufacturing *except digital camera manufacturing*.		
334411	Electron Tube Manufacturing.	334419	Other Electronic Component Manufacturing.
334414	Electronic Capacitor Manufacturing.	334416	Capacitor, Resistor, Coil, Transformer, and Other Inductor Manufacturing.
334415	Electronic Resistor Manufacturing.		
334416	Electronic Coil, Transformer, and Other Inductor Manufacturing.		

REVISED TRI 2012 REPORTING CODES—Continued

2007 NAICS Code	2007 NAICS and U.S. Description	2012 NAICS Code	2012 NAICS description
334518	Watch, Clock, and Part Manufacturing.	334519	Other Measuring and Controlling Device Manufacturing.
334611	Software Reproducing.	334614	Software and Other Prerecorded Compact Disc, Tape, and Record Reproducing.
334612	Prerecorded Compact Disc (except Software), Tape, and Record Reproducing.		
335211	Electric Housewares and Household Fan Manufacturing.	335210	Small Electrical Appliance Manufacturing.
335212	Household Vacuum Cleaner Manufacturing.		
336311	Carburetor, Piston, Piston Ring, and Valve Manufacturing.	336310	Motor Vehicle Gasoline Engine and Engine Parts Manufacturing.
336312	Gasoline Engine and Engine Parts Manufacturing.		
336321	Vehicular Lighting Equipment Manufacturing.	336320	Motor Vehicle Electrical and Electronic Equipment Manufacturing.
336322	Other Motor Vehicle Electrical and Electronic Equipment Manufacturing.		
336391	Motor Vehicle Air-Conditioning Manufacturing.	336390	Other Motor Vehicle Parts Manufacturing.
336399	All Other Motor Vehicle Parts Manufacturing.		
337129	Wood Television, Radio, and Sewing Machine Cabinet Manufacturing.	321999	All Other Miscellaneous Wood Product Manufacturing.
339911	Jewelry (except Costume) Manufacturing.	339910	Jewelry and Silverware Manufacturing.
339912	Silverware and Hollowware Manufacturing.		
339913	Jewelers' Material and Lapidary Work Manufacturing.		
339914	Costume Jewelry and Novelty Manufacturing.		
339931	Doll and Stuffed Toy Manufacturing.	339930	Doll, Toy, and Game Manufacturing.
339932	Game, Toy, and Children's Vehicle Manufacturing.		
339941	Pen and Mechanical Pencil Manufacturing.	339940	Office Supplies (except Paper) Manufacturing.
339942	Lead Pencil and Art Good Manufacturing.		
339943	Marking Device Manufacturing.		
339944	Carbon Paper and Inked Ribbon Manufacturing.		

VIII. What additional reporting burden is associated with this action?

This proposed rule would add no new reporting requirements, and there would be no net increase in respondent burden. Facilities were first required to use NAICS codes when reporting their toxic chemical releases and other waste management activities to EPA beginning in 2007 for reporting year 2006. Covered facilities should refer to the updated NAICS code list in 40 CFR 372.23 when reporting. Crosswalk tables between 2007 NAICS codes and 2012 NAICS codes can be found on the Internet at *http://www.census.gov/epcd/www/naics.html*.

IX. Regulatory Assessment Requirements

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

This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

EPA analyzed the potential costs and benefits associated with this action, and determined that since this rule adds no new reporting requirements, there will be no net increase in respondent burden or other economic impacts.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. Facilities that are affected by the rule are already required to report their industrial classification codes on the approved reporting forms under section 313 of EPCRA and 6607 of the PPA.

However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in 40 CFR part 372 under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* and has assigned OMB control number 2025–0009 (EPA ICR No. 1363–21) for Form R and Form A. A copy of the OMB approved Information Collection Requests (ICRs) may be obtained from Susan Auby, Collection Strategies Division; U.S. Environmental Protection Agency (2822T); 1200 Pennsylvania Ave. NW., Washington, DC 20460 or by calling (202) 566–1672. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. The Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this rule on small entities, section 601 of the RFA, 5 U.S.C. 601, defines ''small entity'' as: (1) A business that is classified as a ''small business'' by the Small Business Administration at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; or (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

This rule adds no new reporting requirements, and there will be no net increase in respondent burden. This

rule only proposes to update the NAICS codes already reported by respondents. After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This proposed rule will not impose any requirements on small entities.

We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

This rule does not contain a Federal mandate that may result in expenditures of $100 million or more to State, local, and tribal governments, in the aggregate, or to the private sector in any one year. This rule adds no new reporting requirements and there will be no net increase in respondent burden. Thus, this rule is not subject to the requirements of sections 202 or 205 of UMRA.

This rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This EPA action contains no new reporting requirements.

E. Executive Order 13132, Federalism

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This action only proposes to update the NAICS reporting codes used by TRI reporting facilities on chemical reporting forms. Thus, Executive Order 13132 does not apply to this rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed action from State and local officials.

F. Executive Order 13175

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249), November 9, 2000, because this action only proposes to update the NAICS reporting codes for TRI reporting purposes. Thus, Executive Order 13175 does not apply to this rule.

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

EPA interprets EO 13045 (62 FR 19885, April 23, 1997), as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

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

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

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

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because the rule addresses information collection and does not affect the level of protection provided to human health or the environment. This rule simply proposes to update the NAICS reporting codes for TRI reporting purposes.

List of Subjects in 40 CFR Part 372

Environmental protection, Community right-to-know, Reporting and recordkeeping requirements, Toxic chemicals.

Dated: July 9, 2013.

Bob Perciasepe,

Acting Administrator.

For the reasons set out in the preamble, title 40 Chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 372—[AMENDED]

■ 1. The authority citation for part 372 continues to read as follows:

Authority: 42 U.S.C. 11023 and 11048.

■ 2. Amend § 372.22 by revising the introductory text for paragraph (b) to read as follows:

§ 372.22 Covered facilities for toxic chemical release reporting.

* * * * *

(b) The facility is in a Standard Industrial Classification (SIC) (as in effect on January 1, 1987) major group or industry code listed in § 372.23(a), for which the corresponding North American Industry Classification System (NAICS) (as in effect on January 1, 2012, for reporting year 2013 and thereafter) subsector and industry codes are listed in §§ 372.23(b) and 372.23(c) by virtue of the fact that it meets one of the following criteria:

* * * * *

■ 3. Amend § 372.23 by revising paragraphs (b) and (c) to read as follows:

§ 372.23 SIC and NAICS codes to which this Part applies.

* * * * *

(b) NAICS codes that correspond to SIC codes 20 through 39

Subsector code or industry code	Exceptions and/or limitations
311 Food Manufacturing	Except 311119—Exception is limited to facilities primarily engaged in Custom Grain Grinding for Animal Feed (previously classified under SIC 0723, Crop Preparation Services for Market, Except Cotton Ginning); Except 311340—Exception is limited to facilities primarily engaged in the retail sale of candy, nuts, popcorn and other confections not for immediate consumption made on the premises (previously classified under SIC 5441, Candy, Nut, and Confectionery Stores); Except 311352—Exception is limited to facilities primarily engaged in the retail sale of candy, nuts, popcorn and other confections not for immediate consumption made on the premises (previously classified under SIC 5441, Candy, Nut, and Confectionery Stores); Except 311611—Exception is limited to facilities primarily engaged in Custom Slaughtering for individuals (previously classified under SIC 0751, Livestock Services, Except Veterinary, Slaughtering, custom: for individuals); Except 311612—Exception is limited to facilities primarily engaged in the cutting up and resale of purchased fresh carcasses for the trade (including boxed beef), and in the wholesale distribution of fresh, cured, and processed (but not canned) meats and lard (previously classified under SIC 5147, Meats and Meat Products); Except 311811—Retail Bakeries (previously classified under SIC 5461, Retail Bakeries);
312 Beverage and Tobacco Product Manufacturing	Except 312112—Exception is limited to facilities primarily engaged in bottling mineral or spring water (previously classified under SIC 5149, Groceries and Related Products, NEC); Except 312230—Exception is limited to facilities primarily engaged in providing Tobacco Sheeting Services (previously classified under SIC 7389, Business Services, NEC);
313 Textile Mills	Except 313310—Exception is limited to facilities primarily engaged in converting broadwoven piece goods and broadwoven textiles, (previously classified under SIC 5131, Piece Goods Notions, and Other Dry Goods, broadwoven and non-broadwoven piece good converters); and facilities primarily engaged in converting narrow woven Textiles and narrow woven piece goods, (previously classified under SIC 5131, Piece Good Notions, and Other Dry Goods, converters, except broadwoven fabric); and facilities primarily engaged in sponging fabric for tailors and dressmakers (previously classified under SIC 7389, Business Services, NEC (Sponging fabric for tailors and dressmakers);
314 Textile Product Mills	Except 314120—Exception is limited to facilities primarily engaged in making Custom drapery and in making Custom slipcovers for retail sale (previously classified under SIC 5714, Drapery, Curtain, and Upholstery Stores); Except 314999—Exception is limited to facilities primarily engaged in Binding carpets and rugs for the trade, Carpet cutting and binding, and Embroidering on textile products (except apparel) for the trade (previously classified under SIC 7389, Business Services Not Elsewhere Classified, Embroidering of advertising on shirts and Rug binding for the trade);
315 Apparel Manufacturing	Except 315220—Exception is limited to custom tailors primarily engaged in making and selling men's and boys' suits, men's and boys' dress shirts, and bridal dresses or gowns or women's, misses' and girls' dresses, cut and sewn from purchased fabric (previously classified under SIC 5699, Miscellaneous Apparel and Accessory Stores (custom tailors)) and to custom tailors primarily engaged in making and selling bridal dresses or gowns, or women's, misses' and girls' dresses cut and sewn from purchased fabric (except apparel contractors) (custom dressmakers) (previously classified under SIC Code 5699, Miscellaneous Apparel and Accessory Stores);
316 Leather and Allied Product Manufacturing.	
321 Wood Product Manufacturing.	
322 Paper Manufacturing.	
323 Printing and Related Support Activities	Except 323111—Exception is limited to facilities primarily engaged in reproducing text, drawings, plans, maps, or other copy, by blueprinting, photocopying, mimeographing, or other methods of duplication other than printing or microfilming (i.e., instant printing) (previously classified under SIC 7334, Photocopying and Duplicating Services, (instant printing));
324 Petroleum and Coal Products Manufacturing.	
325 Chemical Manufacturing	Except 325998—Exception is limited to facilities primarily engaged in Aerosol can filling on a job order or contract basis (previously classified under SIC 7389, Business Services, NEC (aerosol packaging));

Subsector code or industry code	Exceptions and/or limitations
326 Plastics and Rubber Products Manufacturing	Except 326212—Tire Retreading, (previously classified under SIC 7534, Tire Retreading and Repair Shops (rebuilding));
327 Nonmetallic Mineral Product Manufacturing	Except 327110—Exception is limited to facilities primarily engaged in manufacturing and selling pottery on site (previously classified under SIC 5719, Miscellaneous Homefurnishing Stores);
331 Primary Metal Manufacturing.	
332 Fabricated Metal Product Manufacturing.	
333 Machinery Manufacturing.	
334 Computer and Electronic Product Manufacturing	Except 334614—Exception is limited to facilities primarily engaged in Software Reproducing (previously classified under SIC 7372, Prepackaged Software, (reproduction of software)) and to facilities primarily engaged in mass reproducing pre-recorded Video cassettes, and mass reproducing Video tape or disk (previously classified under SIC 7819, Services Allied to Motion Picture Production (reproduction of Video));
335 Electrical Equipment, Appliance, and Component Manufacturing	Except 335312—Exception is limited to facilities primarily engaged in armature rewinding on a factory basis (previously classified under SIC 7694 (Armature Rewinding Shops (remanufacturing));
336 Transportation Equipment Manufacturing.	
337 Furniture and Related Product Manufacturing	Except 337110—Exception is limited to facilities primarily engaged in the retail sale of household furniture and that manufacture custom wood kitchen cabinets and counter tops (previously classified under SIC 5712, Furniture Stores (custom wood cabinets));
	Except 337121—Exception is limited to facilities primarily engaged in the retail sale of household furniture and that manufacture custom made upholstered household furniture (previously classified under SIC 5712, Furniture Stores (upholstered, custom made furniture));
	Except 337122—Exception is limited to facilities primarily engaged in the retail sale of household furniture and that manufacture nonupholstered, household type, custom wood furniture (previously classified under SIC 5712, Furniture Stores (custom made wood nonupholstered household furniture except cabinets));
339 Miscellaneous Manufacturing	Except 339113—Exception is limited to facilities primarily engaged in manufacturing orthopedic devices to prescription in a retail environment (previously classified under SIC 5999, Miscellaneous Retail Stores, NEC);
	Except 339115—Exception is limited to lens grinding facilities that are primarily engaged in the retail sale of eyeglasses and contact lenses to prescription for individuals (previously classified under SIC 5995, Optical Goods Stores (optical laboratories grinding of lenses to prescription));
	Except 339116—Dental Laboratories (previously classified under SIC 8072, Dental Laboratories);
111998 All Other Miscellaneous Crop Farming	Limited to facilities primarily engaged in reducing maple sap to maple syrup (previously classified under SIC 2099, Food Preparations, NEC, Reducing Maple Sap to Maple Syrup);
113310 Logging.	
211112 Natural Gas Liquid Extraction	Limited to facilities that recover sulfur from natural gas (previously classified under SIC 2819, Industrial Inorganic chemicals, NEC (recovering sulfur from natural gas));
212324 Kaolin and Ball Clay Mining	Limited to facilities operating without a mine or quarry and that are primarily engaged in beneficiating kaolin and clay (previously classified under SIC 3295, Minerals and Earths, Ground or Otherwise Treated (grinding, washing, separating, etc. of minerals in SIC 1455));
212325 Mining	Limited to facilities operating without a mine or quarry and that are primarily engaged in beneficiating clay and ceramic and refractory minerals (previously classified under SIC 3295, Minerals and Earths, Ground or Otherwise Treated (grinding, washing, separating, etc. of minerals in SIC 1459));
212393 Other Chemical and Fertilizer Mineral Mining	Limited to facilities operating without a mine or quarry and that are primarily engaged in beneficiating chemical or fertilizer mineral raw materials (previously classified under SIC 3295, Minerals and Earths, Ground or Otherwise Treated (grinding, washing, separating, etc. of minerals in SIC 1479));
212399 All Other Nonmetallic Mineral Mining	Limited to facilities operating without a mine or quarry and that are primarily engaged in beneficiating nonmetallic minerals (previously classified under SIC 3295, Minerals and Earths, Ground or Otherwise Treated (grinding, washing, separating, etc. of minerals in SIC 1499));
488390 Other Support Activities for Water Transportation	Limited to facilities that are primarily engaged in providing routine repair and maintenance of ships and boats from floating drydocks (previously classified under SIC 3731, Shipbuilding and Repairing (floating drydocks not associated with a shipyard));

Subsector code or industry code	Exceptions and/or limitations
511110 Newspaper Publishers.	
511120 Periodical Publishers.	
511130 Book Publishers.	
511140 Directory and Mailing List Publishers	Except facilities that are primarily engaged in furnishing services for direct mail advertising including Address list compilers, Address list publishers, Address list publishers and printing combined, Address list publishing , Business directory publishers, Catalog of collections publishers, Catalog of collections publishers and printing combined, Mailing list compilers, Directory compilers, and Mailing list compiling services (previously classified under SIC 7331, Direct Mail Advertising Services (mailing list compilers));
511191 Greeting Card Publishers.	
511199 All Other Publishers.	
512220 Integrated Record Production/Distribution.	
512230 Music Publishers	Except facilities primarily engaged in Music copyright authorizing use, Music copyright buying and licensing, and Music publishers working on their own account (previously classified under SIC 8999, Services, NEC (music publishing));
519130 Internet Publishing and Broadcasting and Web Search Portals.	Limited to facilities primarily engaged in Internet newspaper publishing (previously classified under SIC 2711, Newspapers: Publishing, or Publishing and Printing), Internet periodical publishing (previously classified under SIC 2721, Periodicals: Publishing, or Publishing and Printing), Internet book publishing (previously classified under SIC 2731, Books: Publishing, or Publishing and Printing), Miscellaneous Internet publishing (previously classified under SIC 2741, Miscellaneous Publishing), Internet greeting card publishers (previously classified under SIC 2771, Greeting Cards); Except for facilities primarily engaged in Web search portals.
541712 Research and Development in the Physical, Engineering, and Life Sciences (except Biotechnology).	Limited to facilities that are primarily engaged in Guided missile and space vehicle engine research and development (previously classified under SIC 3764, Guided Missile and Space Vehicle Propulsion Units and Propulsion Unit Parts), and in Guided missile and space vehicle parts (except engines) research and development (previously classified under SIC 3769, Guided Missile and Space Vehicle Parts and Auxiliary Equipment, Not Elsewhere Classified);
811490 Other Personal and Household Goods Repair and Maintenance.	Limited to facilities that are primarily engaged in repairing and servicing pleasure and sail boats without retailing new boats (previously classified under SIC 3732, Boat Building and Repairing (pleasure boat building));

(c) NAICS codes that correspond to SIC codes other than SIC codes 20 through 39.

Subsector or industry code	Exceptions and/or limitations
212111 Bituminous Coal and Lignite Surface Mining.	
212112 Bituminous Coal and Underground Mining.	
212113 Anthracite Mining.	
212221 Gold Ore Mining.	
212222 Silver Ore Mining.	
212231 Lead Ore and Zinc Ore Mining.	
212234 Copper Ore and Nickel Ore Mining.	
212299 Other Metal Ore Mining.	
221111 Hydroelectric Power Generation.	Limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce.
221112 Fossil Fuel Electric Power Generation	Limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce.
221113 Nuclear Electric Power Generation	Limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce.
221118 Other Electric Power Generation	Limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce.
221121 Electric Bulk Power Transmission and Control	Limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce.
221122 Electric Power Distribution	Limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce.
221330 Steam and Air Conditioning Supply	Limited to facilities engaged in providing combinations of electric, gas, and other services, not elsewhere classified (N.E.C.) (previously classified under SIC 4939, Combination Utility Services Not Elsewhere Classified.)
424690 Other Chemical and Allied Products Merchant Wholesalers.	

Subsector or industry code		Exceptions and/or limitations
424710	Petroleum Bulk Stations and Terminals.	
425110	Business to Business Electronic Markets	Limited to facilities previously classified in SIC 5169, Chemicals and Allied Products, Not Elsewhere Classified.
425120	Wholesale Trade Agents and Brokers	Limited to facilities previously classified in SIC 5169, Chemicals and Allied Products, Not Elsewhere Classified.
562112	Hazardous Waste Collection	Limited to facilities primarily engaged in solvent recovery services on a contract or fee basis (previously classified under SIC 7389, Business Services, NEC);
562211	Hazardous Waste Treatment and Disposal	Limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. 6921 *et seq.*
562212	Solid Waste Landfill	Limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. 6921 *et seq.*
562213	Solid Waste Combustors and Incinerators	Limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. 6921 *et seq.*
562219	Other Nonhazardous Waste Treatment and Disposal	Limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. 6921 *et seq.*
562920	Materials Recovery Facilities	Limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. 6921 *et seq.*

[FR Doc. 2013–17297 Filed 7–17–13; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

46 CFR Part 515

[Docket No. 13–05]

RIN 3072–AC44

Amendments to Regulations Governing Ocean Transportation Intermediary Licensing and Financial Responsibility Requirements, and General Duties

AGENCY: Federal Maritime Commission.

ACTION: Advance Notice of Proposed Rulemaking; Extension of Comment Period.

SUMMARY: The Federal Maritime Commission proposes to amend its rules governing the licensing, financial responsibility requirements and duties of Ocean Transportation Intermediaries. The proposed rule is intended to adapt to changing industry conditions, improve regulatory effectiveness, improve transparency, streamline processes and reduce regulatory burdens. The Commission received requests and for a 60-day extension from the National Customs Brokers and Forwarders Association of America Inc., supported by the Transportation Intermediaries Association and from the Pacific Coast Council of Customs Brokers and Freight Forwarders Association, Inc. The Commission determined to grant a 30-day extension of time.

DATES: Comments on the Advanced Notice of Proposed Rulemaking, published on May 31, 2013 (78 FR 32946), are due on or before August 30, 2013.

ADDRESSES: Address all comments concerning this proposed rule to: Karen V. Gregory, Secretary, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573–0001, Phone: (202) 523–5725, Email: *secretary@fmc.gov.*

FOR FURTHER INFORMATION CONTACT: James Nussbaumer, Deputy Director, Bureau of Certification & Licensing, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573–0001, Tel.: (202) 523–5787, Email: *BCLMaritime@fmc.gov.*

Karen V. Gregory,

Secretary.

[FR Doc. 2013–17192 Filed 7–17–13; 8:45 am]

BILLING CODE 6730–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2012–0103; 4500030114]

RIN 1018–AY71

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Northwest Atlantic Ocean Distinct Population Segment of the Loggerhead Sea Turtle (Caretta caretta)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period; announcement of public hearing; and availability of draft economic analysis.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service or USFWS), announce the reopening of the comment period on the March 25, 2013, proposed rule to designate specific areas in the terrestrial environment as critical habitat for the Northwest Atlantic Ocean Distinct Population Segment (DPS) of the Loggerhead Sea Turtle (*Caretta caretta*) under the Endangered Species Act of 1973, as amended (Act). We also announce the availability of a draft economic analysis (DEA) of the proposed designation of critical habitat and an amended required determinations section of the proposal. We also announce that, based on a reevaluation of the applicable Habitat Conservation Plan, we are removing Unit LOGG–T–FL–04 from consideration for exclusion from critical habitat. We are reopening the comment period to allow all interested parties an opportunity to comment simultaneously on the proposed rule, the associated DEA, and the amended required determinations section. Comments previously submitted need not be resubmitted, as they will be fully considered in preparation of the final rule.

DATES: The comment period for the proposed rule published March 25, 2013, at 78 FR 18000, is reopened. We will consider comments received or postmarked by September 16, 2013. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES** section, below) must be received by 11:59 p.m. Eastern Time on the closing date. Any comments that we receive after the closing date may not be considered in the final decision on this action.

Public informational sessions and public hearings: We will hold three public informational sessions and public hearings on this proposed rule. We will hold a public informational session from 5:30 p.m. to 6:30 p.m.,

followed by a public hearing from 7 p.m. to 9 p.m., in Charleston, South Carolina on Tuesday, August 6 (see **ADDRESSES**). We will hold a public informational session from 5:30 p.m. to 6:30 p.m., followed by a public hearing from 7 p.m. to 9 p.m., in Wilmington, North Carolina on Wednesday, August 7 (see **ADDRESSES**). We will hold a public informational session from 5:30 p.m. to 6:30 p.m., followed by a public hearing from 7 p.m. to 9 p.m., in Morehead City, North Carolina on Thursday, August 8 (see **ADDRESSES**). Registration to present oral comments on the proposed rule at the public hearings will begin at the start of each informational session.

ADDRESSES: You may submit written comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* Search for FWS–R4–ES–2012–0103, which is the docket number for this rulemaking.

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R4–ES–2012–0103; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

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

Document Availability: You may obtain copies of the proposed rule and draft economic analysis on the internet at *http://www.regulations.gov* at Docket No. FWS–R4–ES–2012–0103 or at *http://www.fws.gov/northflorida,* or by mail from the North Florida Ecological Services Office (see **FOR FURTHER INFORMATION CONTACT**).

Public informational sessions and public hearings: The August 6, 2013, public informational session and hearing will be held at the South Carolina Department of Natural Resources, Marine Resources Research Institute Auditorium, 217 Ft. Johnson Road, Charleston, SC 29412. The August 7, 2013, public informational session and hearing will be held at the University of North Carolina—Wilmington, Warwick Center, Ballroom 5, 629 Hamilton Drive, Wilmington, NC 28403. The August 8, 2013, public informational session and hearing will be held at the Crystal Coast Civic Center, 3505 Arendell Street, Morehead City, NC 28557. People needing reasonable accommodations in order to attend and participate should contact Chuck Underwood, External Affairs Specialist, North Florida Ecological Services Office, as soon as possible (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Dawn P. Jennings, Acting Field Supervisor, U.S. Fish and Wildlife Service, North Florida Ecological Services Office, 7915 Baymeadows Way, Suite 200, Jacksonville, FL 32256; by telephone 904–731–3336; or by facsimile 904–731–3045. People needing reasonable accommodations in order to attend and participate in the public informational sessions and hearings should contact Chuck Underwood, External Affairs Specialist, North Florida Ecological Services Office; by telephone 904–731–3336; or by email *chuck_underwood@fws.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Public Comments

We will accept written comments and information during this reopened comment period on our proposed designation of critical habitat in the terrestrial environment for the Northwest Atlantic Distinct Population Segment (DPS) of the loggerhead sea turtle that we published in the **Federal Register** on March 25, 2013 (78 FR 18000), our DEA of the proposed designation, and the amended required determinations provided in this document. We will consider information and recommendations from all interested parties. We are particularly interested in comments concerning:

(1) The reasons why we should or should not designate habitat as ''critical habitat'' under section 4 of the Act, including whether there are threats to the species from human activity, the degree of which can be expected to increase due to the designation, and whether that increase in threat outweighs the benefit of designation such that the designation of critical habitat may not be prudent.

(2) Specific information on:

(a) The distribution of the loggerhead sea turtle;

(b) The amount and distribution of loggerhead sea turtle habitat; and

(c) Which areas, occupied by the species at the time of listing (or currently occupied), that contain features essential for the conservation of the species we should include in the designation and why,

(d) What areas not occupied at the time of listing are essential to the conservation of the species and why.

(3) Land use designations and current or planned activities in the subject areas and their possible impacts on proposed critical habitat.

(4) Whether any of the exemptions we are considering, under section 4(a)(3)(B) of the Act, of land on Department of Defense property at Marine Corps Base Camp Lejeune (Onslow Beach), Cape Canaveral Air Force Station, Patrick Air Force Base, and Eglin Air Force Base (Cape San Blas) are or are not appropriate, and why.

(5) Any foreseeable economic, national security, or other relevant impacts that may result from designating any area that may be included in the final designation. We are particularly interested in any impacts on small entities, and the benefits of including or excluding areas from the proposed designation that are subject to these impacts.

(6) Whether our approach to designating critical habitat could be improved or modified in any way to provide for greater public participation and understanding, or to assist us in accommodating public concerns and comments.

(7) Information on the extent to which the description of economic impacts in the DEA is complete and accurate.

(8) The likelihood of adverse social reactions to the designation of critical habitat, as discussed in the DEA, and how the consequences of such reactions, if likely to occur, would relate to the conservation and regulatory benefits of the proposed critical habitat designation.

(9) Special management considerations or protection that may be needed for the nesting beach habitat in critical habitat areas we are proposing, including managing for the potential effects of climate change.

(10) Information on the projected and reasonably likely impacts of climate change on the loggerhead sea turtle and proposed terrestrial critical habitat.

(11) Whether any of the areas we are considering for exclusion under section 4(b)(2) of the Act in St. Johns, Volusia, and Indian River Counties, Florida, because they are covered by an HCP that incorporates measures that provide a benefit for the conservation of the loggerhead sea turtle, are or are not appropriate, and why. The St. Johns County, Florida, Habitat Conservation Plan (''A Plan for the Protection of Sea Turtles and Anastasia Island Beach Mice on the Beaches of St. Johns County, Florida'') is available at *http://www.co.st-johns.fl.us/HCP/*

HabitatConservation.aspx, the Volusia County, Florida, Habitat Conservation Plan (''A Plan for the Protection of Sea Turtles on the Beaches of Volusia County, Florida'') is available at *http://www.volusia.org/core/fileparse.php/4145/urlt/VolusiaHCPDec2007small2.pdf,* and the Indian River County, Florida, Habitat Conservation Plan (''Habitat Conservation Plan for the Protection of Sea Turtles on the Eroding Beaches of Indian River County, Florida'') is available at *http://www.ecological-associates.com/IRC-Final-HCP-July-2003.pdf.*

(12) Whether any other specific areas we are proposing for critical habitat designation should be considered for exclusion under section 4(b)(2) of the Act, and whether the benefits of potentially excluding any specific area outweigh the benefits of including that area under section 4(b)(2) of the Act.

If you submitted comments or information on the proposed rule (78 FR 18000) during the initial comment period from March 25, 2013, to May 24, 2013, please do not resubmit them. We will incorporate them into the public record as part of this comment period, and we will fully consider them in the preparation of our final determination. Our final determination concerning critical habitat will take into consideration all written comments and any additional information we receive during both comment periods. On the basis of public comments, we may, during the development of our final determination, find that areas proposed are not essential, are appropriate for exclusion under section 4(b)(2) of the Act, or are not appropriate for exclusion.

You may submit your comments and materials concerning the proposed rule or DEA by one of the methods listed in the **ADDRESSES** section. We request that you send comments only by the methods described in the **ADDRESSES** section.

If you submit a comment via *http://www.regulations.gov,* your entire comment—including any personal identifying information—will be posted on the Web site. We will post all hardcopy comments on *http://www.regulations.gov* as well. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing the proposed rule and the DEA, will be available for public inspection at *http://www.regulations.gov* at Docket No. FWS–R4–ES–2012–0103, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, North Florida Ecological Services Office (see **FOR FURTHER INFORMATION CONTACT**). You may obtain copies of the proposed rule and the DEA on the Internet at *http://www.regulations.gov* at Docket No. FWS–R4–ES–2012–0103, or by mail from the North Florida Ecological Services Office (see **FOR FURTHER INFORMATION CONTACT**).

Background

For more information on the Northwest Atlantic Ocean DPS of the loggerhead sea turtle, its habitat, or previous Federal actions, refer to the proposed designation of critical habitat published in the **Federal Register** on March 25, 2013 (78 FR 18000), which is available online at *http://www.regulations.gov* (at Docket No. FWS–R4–ES–2012–0103) or the final listing rule published in the **Federal Register** on September 22, 2011 (76 FR 58868), which is available online at *http://www.regulations.gov* (at Docket Number 100104003–1068–02). Both documents are available from the North Florida Ecological Services Office (see **FOR FURTHER INFORMATION CONTACT**).

Previous Federal Actions

The proposed rule to designate areas in the terrestrial environment as critical habitat for the Northwest Atlantic Ocean DPS of the loggerhead sea turtle was published in the **Federal Register** on March 25, 2013 (78 FR 18000), with a 60-day comment period ending May 24, 2013.

On May 10, 2013, the U.S. District Court of the Northern District of California approved a settlement agreement between USFWS and NMFS and the Center for Biological Diversity that stipulates: (1) On or before July 1, 2013, NMFS will complete a determination concerning the designation of marine critical habitat for the Northwest Atlantic Ocean DPS of the loggerhead sea turtle and submit it to the **Federal Register** for publication; (2) on or before July 1, 2014, USFWS will complete a final determination concerning the designation of terrestrial critical habitat for the Northwest Atlantic Ocean DPS of the loggerhead sea turtle and submit it to the **Federal Register** for publication; and (3) on or before July 1, 2014, NMFS will complete a final determination concerning the designation of marine critical habitat for the Northwest Atlantic Ocean DPS of the loggerhead sea turtle and submit it to the **Federal Register** for publication.

Critical Habitat

Section 3 of the Act defines critical habitat as the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features essential to the conservation of the species and that may require special management considerations or protection, and specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. If the March 25, 2013, proposed rule is made final, section 7 of the Act will prohibit destruction or adverse modification of the designated critical habitat by any activity funded, authorized, or carried out by any Federal agency. Federal agencies proposing actions affecting critical habitat must consult with us on the effects of their proposed actions, under section 7(a)(2) of the Act.

Consideration of Impacts Under Section 4(b)(2) of the Act

Section 4(b)(2) of the Act requires that we designate or revise critical habitat based upon the best scientific data available, after taking into consideration the economic impact, impact on national security, or any other relevant impact of specifying any particular area as critical habitat. The Secretary may exclude an area from critical habitat if he determines that the benefits of excluding the area outweigh the benefits of including the area as critical habitat, provided such exclusion will not result in the extinction of the species.

When considering the benefits of inclusion for an area, we consider the additional regulatory benefits that area would receive from the protection from adverse modification or destruction as a result of actions with a Federal nexus (activities conducted, funded, permitted, or authorized by Federal agencies), the educational benefits of mapping areas containing essential features that aid in the recovery of the listed species, and any benefits that may result from designation due to State or Federal laws that may apply to critical habitat.

When considering the benefits of exclusion, we consider, among other things, whether exclusion of a specific area is likely to result in conservation; the continuation, strengthening, or encouragement of partnerships; or implementation of a management plan. In the case of the Northwest Atlantic Ocean DPS of the loggerhead sea turtle,

the benefits of critical habitat include public awareness of the presence of the species and the importance of habitat protection, and, where a Federal nexus exists, increased habitat protection for the species due to protection from adverse modification or destruction of critical habitat. In practice, situations with a Federal nexus exist primarily on Federal lands or for permits issued by or for projects undertaken by Federal agencies.

As discussed in the proposed rule, we are considering whether to exclude areas in St. Johns, Volusia, and Indian River counties, Florida, that are covered under habitat conservation plans (HCP), because the HCPs incorporate measures that provide a benefit for the conservation of the loggerhead sea turtle. In the proposed rule, areas being considered for exclusion include areas within Units LOGG–T–FL–01, LOGG–T–FL–02, and LOGG–T–FL–03 that are covered under the St. Johns County HCP; areas within Units LOGG–T–FL–04 and LOGG–T–FL–05 that are covered under the Volusia County HCP; and areas within Unit LOGG–T–FL–10 that are covered under the Indian River County HCP. Subsequent evaluation of the Volusia County HCP indicates that, although Unit LOGG–T–FL–04 is within the HCP's defined area, the only portion of this critical habitat unit that occurs in Volusia County is the North Peninsula State Park, over which Volusia County has no jurisdiction. The HCP covers only incidental take associated with County emergency vehicles accessing the North Peninsula State Park beaches and does not contain any specific conservation measures for the loggerhead sea turtle within the park. Therefore, we announce that we are no longer considering Unit LOGG–T–FL–04 for exclusion from critical habitat designation under section 4(b)(2) of the Act. We also have received comments on the proposed rule requesting that we exclude other areas based on economic or other concerns. We will evaluate these additional exclusion requests during our development of a final designation.

Draft Economic Analysis

The final decision on whether to exclude any areas will be based on the best scientific data available at the time of the final designation, including information obtained during the comment periods and information about the economic impact of designation. Accordingly, we have prepared a DEA concerning the proposed critical habitat designation, which is available for review and comment at *http://www.regulations.gov* at Docket No. FWS–R4–ES–2012–0103 (see **ADDRESSES** section). The DEA analyzes economic impacts from the proposed critical habitat designation, published in the **Federal Register** March 25, 2013 (78 FR 18000).

The purpose of the DEA is to identify and analyze the potential economic impacts associated with the proposed terrestrial critical habitat designation for the Northwest Atlantic Ocean DPS of the loggerhead sea turtle. The DEA separates conservation measures into two distinct categories according to ''without critical habitat'' and ''with critical habitat'' scenarios. The ''without critical habitat'' scenario represents the baseline for the analysis, considering protections otherwise afforded to the loggerhead (e.g., under the Federal listing and other Federal, State, and local regulations). The ''with critical habitat'' scenario describes the incremental impacts specifically due to designation of critical habitat for the loggerhead. In other words, these incremental conservation measures and associated economic impacts would not occur but for the designation. Conservation measures implemented under the baseline (without critical habitat) scenario are described qualitatively within the DEA, but economic impacts associated with these measures are not quantified. Economic impacts are only quantified for conservation measures implemented specifically due to the designation of critical habitat (i.e., incremental impacts). For a further description of the methodology of the analysis, see Chapter 2 ''Framework of the Analysis'' of the DEA.

The DEA provides estimated costs of the foreseeable potential economic impacts of the proposed critical habitat designation for the Northwest Atlantic Ocean DPS of the loggerhead sea turtle over the next 10 years (2014 to 2023). This was determined to be an appropriate period for analysis because limited planning information is available for most economic activities in the area beyond a 10-year timeframe. It identifies potential incremental costs due to the proposed critical habitat designation; these are those costs attributable to critical habitat that are in addition to the baseline costs attributable to listing and other regulatory protections for the species.

The DEA quantifies economic impacts of loggerhead conservation efforts associated with the following categories of activity: (1) Species and habitat management, (2) in-water and coastal construction, (3) sand placement, (4) recreation, (5) lighting management, (6) disaster response, and (7) oil and gas activities. The DEA considers both economic efficiency and distributional effects that may result from efforts to protect the loggerhead and its habitat. Economic efficiency effects generally reflect ''opportunity costs'' associated with the commitment of resources required to accomplish species and habitat conservation. The DEA also addresses how potential economic impacts are likely to be distributed.

The DEA concludes that incremental impacts resulting from the critical habitat designation are limited to additional administrative costs of section 7 consultation. The primary source of uncertainty associated with the incremental effects analysis is that the actual rate and locations of future projects is unknown. The analysis does not identify any future projects beyond those covered by existing baseline projections. As a result, the analysis does not forecast incremental impacts due to conservation measures being implemented as a result of the designation of critical habitat.

The DEA estimates total potential incremental economic impacts in areas proposed as critical habitat over the next 10 years (2014 to 2023) to be approximately $1,200,000 ($150,000 annualized) in present-value terms applying a 7 percent discount rate. Administrative costs associated with section 7 consultations are distributed as follows: in-water and coastal construction is greatest (46 percent—$530,000), followed by sand placement (18 percent—$210,000), species and habitat management (17 percent—$200,000), recreation (10 percent—$120,000), disaster response (5 percent—$53,000), lighting management (3 percent—$32,000), and oil and gas activities (1 percent—$6,600). In areas being considered for exclusion, quantified impacts to in-water and coastal construction are greatest (54 percent—$68,000), followed by species and habitat management (24 percent—$30,000), recreation (16 percent—$21,000), disaster response (4 percent—$4,900), and sand placement (2 percent—$2,500), with minor quantified impacts expected for lighting management ($370) and oil and gas activities ($140).

The incremental costs described above are further broken down by location of expected incremental costs within the proposed critical habitat units. The greatest incremental impacts are due to the cost of section 7 consultations forecast to occur for activities within LOGG–T–AL–01 (approximately $86,000), comprising approximately seven percent of the overall incremental impacts. The second

largest incremental impacts are predicted to occur within LOGG–T–FL–40 (approximately $83,000), also comprising approximately seven percent of the overall incremental impacts. Overall, however, quantified impacts in 58 of the proposed critical habitat units are expected to be under $10,000.

The critical habitat units with the greatest level of administrative costs for section 7 consultations by activity are as follows: species and habitat management (LOGG–T–AL–01), in-water and coastal construction (LOGG–T–FL–40), sand placement (LOGG–T–SC–01), recreation (LOGG–T–FL–07), lighting management (LOGG–T–FL–07), disaster response (equally distributed across all units), and oil and gas activities (LOGG–T–MS–01 and 02; LOGG–T–AL–01 and 02).

As stated earlier, we are soliciting data and comments from the public on the DEA, as well as on all aspects of the proposed rule and our amended required determinations. We may revise the proposed rule or supporting documents to incorporate or address information we receive during the public comment period. In particular, we may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area, provided the exclusion will not result in the extinction of this species.

Required Determinations—Amended

In our March 25, 2013, proposed rule (78 FR 18000), we indicated that we would defer our determination of compliance with several statutes and executive orders until the information concerning potential economic impacts of the designation and potential effects on landowners and stakeholders became available in the DEA. We have now made use of the DEA data to make these determinations. In this document, we affirm the information in our proposed rule concerning Executive Order (E.O.) 12866 (Regulatory Planning and Review), E.O. 12630 (Takings), E.O. 13132 (Federalism), E.O. 12988 (Civil Justice Reform), E.O. 13211 (Energy, Supply, Distribution, and Use), the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), and the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951). However, based on the DEA data, we are amending our required determination concerning the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA; 5 U.S.C. 801 *et seq.*), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to require Federal agencies to provide a certification statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities. Based on our DEA of the proposed designation, we provide our analysis for determining whether the proposed rule would result in a significant economic impact on a substantial number of small entities. Based on comments we receive, we may revise this determination as part of our final rulemaking.

According to the Small Business Administration, small entities include small organizations such as independent nonprofit organizations; small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents; and small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we considered the types of activities that might trigger regulatory impacts under this designation as well as types of project modifications that may result. In general, the term ''significant economic impact'' is meant to apply to a typical small business firm's business operations.

Of the seven categories of key activities (species and habitat management, in-water and coastal construction, sand placement, recreation, lighting management, disaster response, and oil and gas activities) identified in the DEA as those that may have an adverse impact on the physical and biological features of loggerhead terrestrial critical habitat, small entities are not anticipated to incur incremental costs associated with disaster response or oil and gas activities. This is due to the fact that the forecasted section 7 consultations concerning these activities are expected to involve only USFWS and Federal agencies (Federal Emergency Management Agency and Bureau of Ocean Energy Management). The DEA also describes impacts associated with species and habitat management, in-water and coastal development, sand placement, recreation, and lighting management. While we expect that future section 7 consultations concerning these activities will primarily involve USFWS and Federal agencies, the potential exists for third parties to be involved in consultations. Specifically, for species and habitat management, sand placement, recreation, and lighting management, counties may be involved in future section 7 consultations. For in-water and coastal development, businesses may be involved in future section 7 consultations. Therefore, the DEA presents information on small governmental jurisdictions (counties) and small businesses that may be involved in the forecast consultations for these activities.

To determine if the proposed designation of terrestrial critical habitat for the loggerhead would affect a substantial number of small entities, we considered the number of small entities affected within the categories of activities identified above. In order to determine whether it is appropriate for our agency to certify that this proposed rule would not have a significant economic impact on a substantial number of small entities, we considered each industry or category individually. In estimating the numbers of small entities potentially affected, we also considered whether their activities have any Federal involvement. Critical habitat designation will not affect activities that do not have any Federal involvement; designation of critical habitat only affects activities conducted, funded, permitted, or authorized by Federal agencies. In areas where the loggerhead is present, Federal agencies already are required to consult with us

under section 7 of the Act on activities they fund, permit, or implement that may affect the species. If we finalize this proposed critical habitat designation, consultations to avoid the destruction or adverse modification of critical habitat would be incorporated into the existing consultation process.

Of the county governments potentially involved in future section 7 consultation on species and habitat management, lighting management, sand placement, and recreation, only one county is considered a small government jurisdiction as defined in Section 601(5) of the RFA. With a population of 15,844, Gulf County, Florida, is considered a small governmental jurisdiction. The total potential annualized incremental economic impact to Gulf County is $650 (seven percent discount rate), which represents less than 0.01 percent of the county's reported revenues in 2011. This impact is the total third party cost of forecasted section 7 consultations on species and habitat management (associated with the potential reinitiation of formal consultation on the Gulf County draft HCP should it be approved prior to final designation of terrestrial critical habitat), sand placement, recreation, and lighting management, which are expected to occur in the proposed critical habitat units located in Gulf County, Florida, as described in Chapters 3, 5, and 6 of the DEA. We exclude costs associated with programmatic consultations, as these are expected to involve only USFWS and a Federal agency. Note that proposed critical habitat unit LOGG–T–FL–41 contains areas in both Bay and Gulf Counties. For purposes of this analysis, the DEA conservatively assumed that the full third party costs associated with consultations in this unit are incurred by Gulf County, which may result in an overestimate of costs.

In the DEA, we also evaluated the potential economic effects on small entities resulting from participation in section 7 consultation. Although we expect that Federal agencies are the only entities that will be directly regulated as a result of designation of terrestrial critical habitat for the loggerhead, we acknowledge that third party proponents of an action subject to Federal permitting or funding may be indirectly affected by critical habitat designation. The DEA, therefore, uses information from Dun and Bradstreet databases to determine the number of small businesses operating within potentially affected industry sectors in each county containing proposed critical habitat units and includes a brief evaluation of the potential number of third party small business entities likely to be affected if this critical habitat designation is finalized. Please refer to the DEA of the proposed critical habitat designation for a more detailed discussion of potential economic impacts.

The Service's current understanding of recent case law is that Federal agencies are required to evaluate the potential impacts of rulemaking only on those entities directly regulated by the rulemaking; therefore, they are not required to evaluate the potential impacts to those entities not directly regulated. The designation of critical habitat for an endangered or threatened species has a regulatory effect only where a Federal action agency is involved in a particular action that may affect the designated critical habitat. Under these circumstances, only the Federal action agency is directly regulated by the designation, and, therefore, consistent with the Service's current interpretation of RFA and recent case law, the Service may limit its evaluation of the potential impacts to those identified for Federal action agencies. Under this interpretation, there is no requirement under the RFA to evaluate potential impacts to entities not directly regulated, such as small businesses. However, Executive Orders 12866 and 13563 direct Federal agencies to assess the costs and benefits of available regulatory alternatives in quantitative (to the extent feasible) and qualitative terms. Consequently, it is the current practice of the Service to assess to the extent practicable these potential impacts, if sufficient data are available, whether or not this analysis is believed by the Service to be strictly required by the RFA. In other words, while the effects analysis required under the RFA is limited to entities directly regulated by the rulemaking, the effects analysis under the Act, consistent with the E.O. regulatory analysis requirements, can take into consideration impacts to both directly and indirectly impacted entities, where practicable and reasonable.

In summary, we have considered whether the proposed designation would result in a significant economic impact on a substantial number of small entities. Information for this analysis was gathered from the Small Business Administration. Within areas proposed for critical habitat designation, the quantified annualized impacts to small entities are estimated to be $15,000, or approximately 12 percent of total quantified incremental impacts anticipated as a result of designation of this proposed critical habitat. In areas being considered for exclusion, the quantified annualized impacts to small entities are estimated to be $1,800, or approximately 11 percent of total quantified incremental impacts anticipated as a result of designation of this proposed critical habitat. However, based on comments we receive, we may revise this estimate as part of our final rulemaking. For the above reasons and based on currently available information, we certify that, if promulgated, the proposed critical habitat designation would not have a significant economic impact on a substantial number of small business entities. Therefore, an initial regulatory flexibility analysis is not required.

E.O. 12630 (Takings)

In accordance with E.O. 12630 (Government Actions and Interference with Constitutionally Protected Private Property Rights), we have analyzed the potential takings implications of designating terrestrial critical habitat for the loggerhead in a takings implications assessment. As discussed above, the designation of critical habitat affects only Federal actions. Although private parties that receive Federal funding, assistance, or require approval or authorization from a Federal agency for an action may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. The economic analysis found that no significant economic impacts are likely to result from the designation of critical habitat for loggerhead. Because the Act's critical habitat protection requirements apply only to Federal agency actions, few conflicts between critical habitat and private property rights should result from this designation. Based on information contained in the economic analysis assessment and described within this document, it is not likely that economic impacts to a property owner would be of a sufficient magnitude to support a takings action. Therefore, the takings implications assessment concludes that this designation of critical habitat for loggerhead does not pose significant takings implications for lands within or affected by the designation.

Authors

The primary authors of this notice are the staff members of the North Florida Ecological Services Office, Southeast Region, U.S. Fish and Wildlife Service.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: June 10, 2013.

Rachel Jacobson,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2013–17205 Filed 7–17–13; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 78, No. 138

Thursday, July 18, 2013

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Draft Environmental Assessment for the Cotton Quality Research Station Land Transfer

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of the Draft Environmental Assessment for the Cotton Quality Research Station Land Transfer.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA) of 1969, as amended, and the Federal Land Policy and Management Act of 1976 (FLPMA), as amended, the United States Department of Agriculture (USDA) has prepared a Draft Environmental Assessment (EA) for the proposed transfer of approximately 10 acres of land and facilities at the Cotton Quality Research Station (CQRS) from the USDA Agricultural Research Service (ARS) in Clemson, South Carolina, to Clemson University Research Farm Services. This notice is announcing the opening of a 30-day public comment period.

DATES: Comments must be received on or before August 17, 2013.

ADDRESSES: You may submit comments related to the proposed CQRS Land Transfer by any of the following methods: Email: *cal.mather@ars.usda.gov,* Fax: 309–681–6683. Mail: USDA–ARS–SHEMB, NCAUR, 1815 North University Avenue, Room 2016, Peoria, Ilinois 61604. Copies of the Draft EA for the proposed CQRS Land Transfer are available for public inspection at the following Web site and addresses:

- *www.clemson.edu/usda-property.*
- Former CQRS, 133 Old Cherry Road, Clemson, South Carolina 29631.
- Clemson University Library, 116 Sigma Drive, Clemson, South Carolina, 29634.

FOR FURTHER INFORMATION CONTACT: Cal Mather, Environmental Protection Specialist, USDA–ARS–SHEMB, NCAUR, 1815 North University Street, Room 2016, Peoria, Illinois 61604; 309–681–6608.

SUPPLEMENTARY INFORMATION: The USDA is proposing to transfer approximately 10 acres of land and facilities at CQRS, 133 Old Cherry Road in Clemson, South Carolina, to Clemson University. As a condition of the transfer, Clemson University is committed to using the property for agricultural research for a period of 25 years, supporting the strategic goals of USDA and establishing a Beginning Farmers and Ranchers Program in accordance with the Memorandum of Understanding, effective March 27, 2013. Clemson University would assume responsibility and maintenance of the constructed facilities and land to be conveyed from USDA. The property was developed to function as a cotton gin and was converted by USDA for use in their Agricultural Research Service (ARS) program. USDA/ARS and Clemson University have both utilized the property for agricultural research and development programs since the 1970s. The facility was closed under Public Law (Pub. L.) 112–55, Consolidated and Further Continuing Appropriations Act, 2012. In August 2012, a 5-year revocable permit was issued between USDA and Clemson University that allows Clemson University to utilize the Property for a Beginning Farmers and Ranchers Program and conduct a wide range of research, teaching, extension, and demonstration activities. Since August 2012 it has been operated by Clemson University under this permit. A Memorandum of Understanding was executed on March 27, 2013, that would allow the formal transfer of the Property from USDA to Clemson University. Under the terms of the Public Law, the Secretary of Agriculture will decide whether to formally transfer the Property from USDA to Clemson University or have USDA retain the possession of the Property. If the decision is made to transfer the Property, it will be done with no monetary cost to the University and a Quit Claim Deed will be prepared by the USDA to convey the title/property rights to Clemson University. The Quit Claim Deed would incorporate any use restrictions identified by the NEPA process, as well as the 25-year use restriction for agricultural and natural resources research as required by Section 732 of the Public Law. Two alternatives are analyzed in the Draft EA, the No Action Alternative and the Proposed Action. The draft EA addresses potential impacts of these alternatives on the natural and human environment.

- Alternative 1—No Action. The USDA would retain possession of the 10 acres of land and facilities at the 133 Old Cherry Road Property. USDA would no longer operate and/or maintain the property and current research operations at the property would cease. USDA does not have adequate resources to operate and/or maintain the property, which would likely fall into disrepair.
- Alternative 2—Proposed Action. The USDA would formerly transfer 10 acres of land at the 133 Old Cherry Road Property to Clemson University. As a condition of the transfer, Clemson University would commit to using the Property for agricultural and natural resources research for a period of 25 years, supporting the strategic goals of USDA and establishing a Beginning Farmers and Ranchers Program. Clemson University would assume responsibility and maintenance of the constructed facilities and land to be conveyed from USDA.

In addition, one alternative was considered in the Draft EA but eliminated from detailed study. In this alternative, USDA would retain possession of the land and it would be transferred to the General Services Administration for disposal. Since it cannot reasonably be determined who would ultimately take possession of the property and how it would be utilized, it was not analyzed in detail in the EA. The USDA will use and coordinate the NEPA commenting process to satisfy the public involvement process for Section 106 of the National Historic Preservation Act (16 U.S.C. 470(f) as provided for in 36 CFR 800.2(d)(3)). Following the public comment period, comments will be used to prepare the Final EA. The USDA will respond to each substantive comment by making appropriate revisions to the document or by explaining why a comment did not warrant a change. A Notice of Availability of the Final EA will be published in the **Federal Register**. All comments, including any personal

identifying information included in the comment will become a matter of public record. 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: July 10, 2013.

Edward B. Knipling,

Administrator, Agricultural Research Service.

[FR Doc. 2013–17245 Filed 7–17–13; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Stark Bro's Nurseries & Orchards Co. of Louisiana, Missouri, an exclusive license to U.S. Patent Application Serial No. 13/506,771, ''APRICOT TREE 'TWOCOT','' filed on May 16, 2012.

DATES: Comments must be received on or before August 19, 2013.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Rm. 4–1174, Beltsville, Maryland 20705–5131.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights in this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as Stark Bro's Nurseries & Orchards Co. of Louisiana, Missouri has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within thirty (30) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Robert Griesbach,

Deputy Assistant Administrator.

[FR Doc. 2013–17244 Filed 7–17–13; 8:45 am]

BILLING CODE 3410–03–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Illinois Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a meeting of the Illinois Advisory Committee to the Commission will convene by conference call at 9:30 a.m. CST and adjourn at 11:00 a.m. CST on July 30, 2013. The purpose of the meeting is to allow Committee members the opportunity to discuss and vote on two project proposals: Civil Rights Issues Facing Immigrants in Illinois and Monitoring Food Deserts in Chicago: An Update. The Committee will also discuss the preparatory subcommittee work involving its project on religious discrimination in Illinois prisons. Finally, the meeting will include an orientation to new members.

This meeting is available to the public through the following toll-free call-in number: 888–417–8465, conference ID: 6013056. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to submit written comments. The comments must be received in the regional office by August 14, 2013. The address is US Commission on Civil Rights, Midwestern Regional Office, 55 W. Monroe St., Suite 410, Chicago, IL 60603. Comments may be emailed to callen@usccr.gov. Records generated by this meeting may be inspected and reproduced at the Midwestern Regional Office, as they become available, both before and after the meeting, and they will be uploaded onto the database at *www.facadatabase.gov.* Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, www.usccr.gov, or to contact the Midwestern Regional Office at the above email or street address.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission and FACA.

Dated in Chicago, IL, July 12, 2013.

David Mussatt,

Acting Chief, Regional Programs Coordination Unit.

[FR Doc. 2013–17172 Filed 7–17–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–73–2013]

Foreign-Trade Zone (FTZ) 41—Milwaukee, Wisconsin, Notification of Proposed Production Activity, Broan-NuTone LLC (Home Ventilation Products and Heaters), Hartford, Wisconsin

Broan-NuTone, LLC (Broan-NuTone) submitted a notification of proposed production activity to the FTZ Board for its facility in Hartford, Wisconsin within Subzone 41L. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on June 26, 2013.

The Broan-NuTone facility is used for the manufacturing and distribution of residential range hoods, subassemblies or component parts for centrifugal blowers, ceiling exhaust fans, wall or ceiling heaters, blower assemblies and roof and wall caps. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Broan-NuTone from customs duty payments on the foreign status components used in export production. On its domestic sales, Broan-NuTone would be able to choose the duty rates during customs entry procedures that apply to range hoods/down drafts, blower assemblies, ceiling exhaust fans for permanent installation, roof/wall caps and heaters (floor, wall or ceiling) (duty rate ranges from free to 4.7%) for the foreign status inputs noted below. Customs duties also could possibly be deferred or reduced on foreign status production equipment.

The components and materials sourced from abroad include: polymer paint, label materials, logo materials, packaging materials, plastic packing, plastic bags, plastic trim pieces and switch covers, rubber spacers, plastic items, rubber gaskets, gaskets, rubber washers, rubber stoppers, rubber grommets, other rubber articles, cartons, bags, corrugated boxes with fillers, instruction sheets, range hood filters, bathroom mirrors, filters for whole house ventilation systems, cold-rolled steel for manufacturing, flat-rolled steel for manufacturing, plated wire, housing for recessed range hood, wire mesh for bird screens, roof/wall caps, screws, fasteners, stainless steel screws, nuts, washers, rivet housing assembly, damper or filter springs for grille, stainless steel kitchen backsplashes, brackets, aluminum stainless for manufacturing, zinc screws, parts of hinges, hinge cabinets, mounting brackets, brackets, metal flex ducts, ceiling exhaust or paddle fans, wall or ceiling exhaust fans, residential range hood canopies, parts used in ventilation, filters, parts of filters, central valve dampers, roller down drafts, electric motors for exhaust/ventilation, electric motors for downdraft range hoods, parts used on electric motors, light ballasts, transformers, magnets for range hoods, portable heaters and fans, heating resistors, parts for heaters, capacitors, ceramic capacitors, resistors, fuses, circuit breakers for exhaust/heater units, relays, motor starters, wall switches, various switch types, lamp sockets, other electrical parts, switch parts, male/female connectors, terminals for switches, other apparatus for switches, printed circuit boards, membrane covers for switches, halogen light bulbs, light bulbs, fluorescent light bulbs, light housing for range hoods, light diodes, coaxial cables, wire harnesses, cable wires, fuse holders, snap bushing (damper), air pressure switch valves, thermostat/heat sensor for ventilation, heat regulator/dehumidistat, timer switch assembly, timer control switch assembly, metal housing medicine cabinets, wood trimmed medicine cabinets, plastic housing medicine cabinets, wood components for medicine cabinets, metal components for cabinets, light kits for fans with base metal, non-base metal light fittings, base metal parts for light kits, parts for light kits, glass globes and other parts of lamps (finials) (duty rate ranges from free to 12%).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is August 27, 2013.

A copy of the notification 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 Board's Web site, which is accessible via *www.trade.gov/ftz.*

FOR FURTHER INFORMATION CONTACT: Elizabeth Whiteman at *Elizabeth.Whiteman@trade.gov* or (202) 482–0473.

Dated: July 11, 2013.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2013–17261 Filed 7–17–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–74–2013]

Foreign-Trade Zone (FTZ) 114—Peoria, Illinois; Notification of Proposed Production Activity, Easton-Bell Sports, Inc. (Sports Equipment), Rantoul, Illinois

Easton-Bell Sports, Inc. (Easton-Bell Sports) submitted a notification of proposed production activity to the FTZ Board for its facility in Rantoul, Illinois within FTZ 114. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on June 27, 2013.

A separate application for subzone status at the Easton-Bell Sports facility was submitted and is being processed under Section 400.31 of the Board's regulations (Doc. B–32–2013). The facility is used for the assembly and distribution of safety helmets, baby seats for bicycles and bicycle car carrier racks. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Easton-Bell Sports from customs duty payments on the foreign status components used in export production. On its domestic sales, Easton-Bell Sports would be able to choose the duty rates during customs entry procedures that apply to bicycle, motorcycle, football and baseball helmets; bicycle baby seats; and, bicycle car carrier racks (duty rate ranges from free to 2.5%) for the foreign status inputs noted below. Customs duties also could possibly be deferred or reduced on foreign status production equipment.

The components and materials sourced from abroad include: tape, stickers, plastic bags, stoppers, water bottles, plastic helmet parts, rubber grommets, textile bags, boxes, labels, header cards, manuals, webbing for helmets, helmets, helmet pads, screws, washers, helmet parts, buckles, bike carrier parts, bike parts and baby seat parts (duty rate ranges from free to 17.6%). The request indicates that textile bags (classified under HTSUS Subheading 4202.92) will be admitted to the zone in privileged foreign status (19 CFR 146.41), thereby precluding inverted tariff benefits on such items.

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is August 27, 2013.

A copy of the notification 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 Board's Web site, which is accessible via *www.trade.gov/ftz.*

FOR FURTHER INFORMATION CONTACT: Elizabeth Whiteman at *Elizabeth.Whiteman@trade.gov* or (202) 482–0473.

Dated: July 12, 2013.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2013–17264 Filed 7–17–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–900]

Diamond Sawblades and Parts Thereof From the People's Republic of China: Amended Final Results of Antidumping Duty Administrative Review; 2010–2011

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is amending the final results of the administrative review of the antidumping duty order on diamond sawblades and parts thereof (diamond sawblades) from the People's Republic of China (the PRC) to correct a

ministerial error.[1] The period of review (POR) is November 1, 2010, through October 31, 2011.

DATES: *Effective Date:* June 17, 2013.

FOR FURTHER INFORMATION CONTACT: Yang Jin Chun, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–5760.

SUPPLEMENTARY INFORMATION:

Background

On June 11, 2013, and June 13, 2013, the Department disclosed to interested parties its calculations for the *Final Results.* On June 17, 2013, Weihai Xiangguang Mechanical Industrial Co., Ltd. (Weihai) filed a ministerial error allegation. On June 24, 2013, the petitioner, Diamond Sawblades Manufacturers Coalition, filed comments in response to Weihai's ministerial error allegation.

Scope of the Order

The merchandise subject to the order is diamond sawblades. The diamond sawblades subject to the order are currently classifiable under subheadings 8202 to 8206 of the Harmonized Tariff Schedule of the United States (HTSUS), and may also enter under 6804.21.00. The HTSUS subheadings are provided for convenience and customs purposes. A full description of the scope of the order is contained in the decision memorandum dated concurrently with, and hereby adopted by, this amended final.[2] The written description is dispositive.

Ministerial Error

Section 751(h) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.224(f) define a ''ministerial error'' as an error ''in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any similar type of unintentional error which the Secretary considers ministerial.'' After analyzing Weihai's ministerial error allegation, we have determined, in accordance with section 751(h) of the Act and 19 CFR 351.224(e), that we made a ministerial error in our calculations, having unintentionally incorporated certain factor-of-production variables from a subsequently-revised database into the *Final Results* for Weihei.

In accordance with section 751(h) of the Act and 19 CFR 351.224(e), we are amending the *Final Results* of this administrative review of the antidumping duty order on diamond sawblades from the PRC. The revised weighted-average dumping margins are listed below. For a detailed discussion, *see* Decision Memorandum for Amended Final.

Rate for Non-Selected Separate-Rate Recipients

As a result of the correction of the ministerial error, both respondents selected for individual examination have a dumping margin of zero percent.[3] Consistent with section 735(c)(5)(B) of the Act, and because all prior rates for this proceeding were calculated using a methodology the Department abandoned in its *Final Modification for Reviews* pursuant to section 123 of the Uruguay Round Agreements Act,[4] the Department's prior decisions in administrative reviews involving similar circumstances,[5] we find that a reasonable method for determining the weighted-average dumping margins for the non-selected respondents in the amended final results of this administrative review is to average the weighted-average dumping margins calculated for the selected respondents. Consequently, the rate established for the non-selected separate rate respondents is 0.00 percent. For a detailed discussion, *see* Decision Memorandum for Amended Final.

Amended Final Results of the Review

The amended weighted-average dumping margins for the administrative review are as follows:

Company[6]	*Margin (percent)*
Bosun Tools Co., Ltd.	
Chengdu Huifeng Diamond Tools Co., Ltd	0.00
Danyang Huachang Diamond Tools Manufacturing Co., Ltd	0.00
Danyang NYCL Tools Manufacturing Co., Ltd	0.00
Danyang Weiwang Tools Manufacturing Co., Ltd	0.00
Guilin Tebon Superhard Material Co., Ltd	0.00
Hangzhou Deer King Industrial & Trading Co., Ltd	0.00
Hebei Husqvarna-Jikai Diamond Tools Co., Ltd	0.00
Huzhou Gu's Import & Export Co., Ltd	0.00
Jiangsu Fengtai Diamond Tool Manufacture Co., Ltd	0.00
Jiangsu Inter-China Group Corporation	0.00
Jiangsu Youhe Tool Manufacturer Co., Ltd	0.00
Quanzhou Zhongzhi Diamond Tool Co. Ltd	0.00
Rizhao Hein Saw Co., Ltd	0.00
Saint-Gobain Abrasives (Shanghai) Co., Ltd	0.00
Shanghai Robtol Tool Manufacturing Co., Ltd	0.00
Weihai Xiangguang Mechanical Industrial Co., Ltd[7]	0.00
Wuhan Wanbang Laser Diamond Tools Co.	0.00
Xiamen ZL Diamond Technology Co., Ltd	0.00
Zhejiang Wanli Tools Group Co., Ltd	0.00

[1] *See Diamond Sawblades and Parts Thereof From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010–2011,* 78 FR 36166 (June 17, 2013) (*Final Results*).

[2] *See* Memorandum entitled, ''Decision Memorandum for Amended Final Results of the Antidumping Duty Administrative Review: Diamond Sawblades and Parts Thereof from the People's Republic of China covering the Period November 1, 2010, through October 31, 2011,'' (Decision Memorandum for Amended Final).

[3] *See Final Results,* 78 FR at 36167, and the Amended Final Results of the Review section below.

[4] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012) (*Final Modification for Reviews*).

[5] *See, e.g., Ball Bearings and Parts Thereof From France, Germany, and Italy: Preliminary Results of Antidumping Duty Administrative Reviews and Rescission of Antidumping Duty Administrative Reviews in Part,* 77 FR 33159 (June 5, 2012), unchanged in *Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011,* 77 FR 73415 (December 10, 2012).

Disclosure

We will disclose the calculation memorandum used in our analysis to parties to this proceeding within five days of the date of the publication of this notice pursuant to 19 CFR 351.224(b).

Assessment

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b), the Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries in accordance with the amended final results of this review. In accordance with the *Final Modification for Reviews,*[8] we will instruct CBP to liquidate entries by the firms listed above without regard to antidumping duties.

On October 24, 2011, the Department announced a refinement to its assessment practice in NME cases.[9] Pursuant to this refinement in practice, for entries that were not reported in the U.S. sales databases submitted by Weihai, the Department will instruct CBP to liquidate such entries at the PRC-wide rate.

We intend to issue assessment instructions to CBP 15 days after the date of publication of the amended final results of review.

Cash Deposit Requirements

The following cash deposit requirements will be effective retroactively on any entries made on or after June 17, 2013, the date of publication of the *Final Results,* for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption as provided by section 751(a)(2)(C) of the Act: (1) For subject merchandise exported by the companies listed above that have separate rates, the cash deposit rate will be the rate established in this amended final results of review for each exporter as listed above; (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the exporter-specific rate; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the PRC-wide entity; (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These deposit requirements shall remain in effect until further notice.

Notification

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

These amended final results of review are issued and published in accordance with sections 751(h) and 777(i)(1) of the Act.

Dated: July 11, 2013.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2013–17259 Filed 7–17–13; 8:45 am]

BILLING CODE 3510–DS–P

[6] During this segment of the proceeding, we identified certain name variations for several companies. *See Diamond Sawblades and Parts Thereof From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review: 2010–11,* 77 FR 73417, 73418–49, and accompanying Preliminary Decision Memorandum at 14, unchanged in *Final Results.*

[7] Weihai exported some of the subject merchandise to the United States through its Korean parent company, Ehwa Diamond Industrial Co., Ltd. *See, e.g.,* Weihai's March 23, 2012, section A response at 1–2.

[8] *See Antidumping Proceeding: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012) (*Final Modification for Reviews*).

[9] For a full discussion of this practice, *see Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–827]

Certain Cased Pencils From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Determination To Revoke Order In Part; 2010–2011

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On January 11, 2013, the Department of Commerce (the Department) published the preliminary results of the antidumping duty administrative review of certain cased pencils (pencils) from the People's Republic of China (PRC). The period of review (POR) is December 1, 2010, through November 30, 2011. The review covers one exporter of subject merchandise, Beijing Fila Dixon Stationery Company, Ltd. a/k/a Beijing Dixon Ticonderoga Stationery Company, Ltd., a/k/a Beijing Dixon Stationery Company, Ltd., and Dixon Ticonderoga Company (collectively, Dixon). For the final results, we find that Dixon did not make sales of the subject merchandise at less than normal value. Furthermore, the Department is revoking the antidumping duty order in part with respect to Dixon.

DATES: *Effective Date:* July 18, 2013.

FOR FURTHER INFORMATION CONTACT: Mary Kolberg or Sergio Balbontin, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–1785 or (202) 482–6478, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 11, 2013, the Department published the preliminary results of the administrative review of the antidumping duty order on pencils from the PRC.[1] On January 31, 2013, the Department received comments from Dixon concerning the Department's selection of the surrogate country and the surrogate values used in the *Preliminary Results.* The Department conducted verification of Dixon's sales and factors of production responses from April 8, 2013, through April 10,

[1] *See Certain Cased Pencils From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Intent Not To Revoke Order In Part; 2010–2011,* 78 FR 2363 (January 11, 2013) (*Preliminary Results).*

2013, in Beijing, PRC. We received a case brief from Dixon on June 3, 2013, and held a hearing on June 20, 2013. We have conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The merchandise covered by the order includes certain cased pencils from the PRC. Certain cased pencils subject to the order are currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheading 9609.10.00. While the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the order is dispositive. A full description of the scope of the order is contained in the issues and decision memorandum.[2]

The Issues and Decision Memorandum is a public document and is on file electronically *via* Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at *http://www.trade.gov/ia.* The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

Analysis of Comments Received

All issues raised in Dixon's case brief are addressed in the Issues and Decision Memorandum. A list of the issues raised is attached to this notice as an Appendix.

Changes From the Preliminary Results

Based on further information and comments received from Dixon, we have made certain revisions to the margin calculations for Dixon. Specifically, for the reasons explained in the Issues and Decision Memorandum at Comment 1, regarding whether to use India or the Philippines instead of Thailand as the primary surrogate country, we have relied upon the Philippines as the primary surrogate country for valuing Dixon's factors of production for these final results.

Notice of Revocation of the Order, In Part

As explained in the Issues and Decision Memorandum, Dixon has met the criteria described in 19 CFR 351.222(b)(1) and (2) for revocation of the order, in part, and has submitted the certifications and agreement for reinstatement described in 19 CFR 351.222(e)(1).[3] Therefore, we determine that the order with respect to subject merchandise exported by Dixon should be revoked.

Final Results of the Review

As a result of this review, we determine that the following weighted-average dumping margin exists for Dixon for the period December 1, 2010, through November 30, 2011:

Exporter	Weighted-average dumping margin (percent)
Beijing Fila Dixon Stationery Company, Ltd. a/k/a Beijing Dixon Ticonderoga Stationery Company, Ltd., a/k/a Beijing Dixon Stationery Company, Ltd.	0.00

Assessment Rates

In accordance with the *Final Modification,*[4] the Department will instruct U.S. Customs and Border Protection (CBP) to liquidate entries for Dixon without regard to antidumping duties.

The Department recently announced a refinement to its assessment practice in non-market economy (NME) cases.[5] Pursuant to this refinement in practice, for entries that were not reported in the U.S. sales databases submitted by companies individually examined during this review, the Department will instruct CBP to liquidate such entries at the NME-wide rate.

We intend to issue instructions to CBP 15 days after publication of the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) For Dixon, which is revoked from the order, no cash deposit will be required; (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the PRC-wide entity; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Notification to Importers Regarding the Reimbursement of Duties

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties. *See* 19 CFR 351.402(f)(3).

Administrative Protective Order

This notice also serves as a reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary

[2] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations to Paul Piquado, Assistant Secretary for Import Administration, entitled ''Issues and Decision Memorandum for the Administrative Review of the Antidumping Duty Order on Certain Cased Pencils from the People's Republic of China'' dated concurrently with this notice (Issues and Decision Memorandum).

[3] In May 2012, the Department amended its regulations to eliminate the provision for revocation of an antidumping or countervailing duty order with respect to individual exporters or producers based on those individual exporters or producers having received antidumping rates of zero for three consecutive years. *See Modification to Regulation Concerning the Revocation of Antidumping and Countervailing Duty Orders,* 77 FR 29875 (May 21, 2012). The Department's amendment applies to all reviews initiated on or after June 20, 2012. The instant review was initiated in January 2012.

[4] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101, 8102 (February 14, 2012) (*Final Modification*).

[5] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011).

information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. *See* 19 CFR 351.305(a)(3). Failure to comply with the regulations and the terms of an APO is a sanctionable violation. *See* 19 CFR part 354.

These final results of administrative review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: July 10, 2013.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix

Comment 1: Whether to use India or the Philippines instead of Thailand as the primary surrogate country

Comment 2: Whether the antidumping duty order should be revoked as to Dixon

[FR Doc. 2013–17160 Filed 7–17–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Scope Rulings

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* July 18, 2013.

SUMMARY: The Department of Commerce (''Department'') hereby publishes a list of scope rulings and anticircumvention determinations made between January 1, 2013, and March 31, 2013. We intend to publish future lists after the close of the next calendar quarter.

FOR FURTHER INFORMATION CONTACT: Jennifer Moats, AD/CVD Operations, China/NME Group, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: 202–482–2615.

SUPPLEMENTARY INFORMATION:

Background

The Department's regulations provide that the Secretary will publish in the **Federal Register** a list of scope rulings on a quarterly basis.[1] Our most recent notification of scope rulings was published on May 30, 2013.[2] This current notice covers all scope rulings and anticircumvention determinations made by Import Administration between January 1, 2013, and March 31, 2013, inclusive. As described below, subsequent lists will follow after the close of each calendar quarter.

Scope Rulings Made Between January 1, 2013, and March 31, 2013

Brazil

A–351–841: Polyethylene Film, Sheet and Strip from Brazil

Requestor: Terphane, Inc. and Terphane, Ltda; Certain co-polymer surface films are not within the scope of the antidumping duty order, provided the performance-enhancing co-polymer layer is greater than 0.00001 inches thick, as determined by U.S. Customs and Border Production; January 7, 2013.

Italy

A–475–818/C–475–819: Certain Pasta From Italy

Requestor: Valdigrano di Flavio Pagani S.r.L. (''Valdigrano''); Valdigrano's pasta product which contains less than two percent egg white is within the scope of the antidumping and countervailing duty orders; preliminary ruling March 25, 2013.

People's Republic of China

A–570–901: Certain Lined Paper Products from the People's Republic of China

Requestor: Franklin Mill; Lined notebooks and Grid notebooks are not within the scope of the antidumping duty order; preliminary ruling January 16, 2013.

A–570–901: Certain Lined Paper Products from the People's Republic of China

Requestor: Esselte Corporation; Stone paper notebooks are within the scope of the antidumping duty order; February 27, 2013.

A–570–504: Petroleum Wax Candles from the People's Republic of China

Requestor: Signature Brands, LLC (''Signature Brands''); five of Signature Brand's candles, meeting all the requirements as specified in the final scope determination, are not within the scope of the antidumping duty order, and 17 of Signature Brand's candles, which did not meet all of the requirements, are within the scope of the antidumping duty order; March 7, 2013.

A–570–970 and C–570–971: Multilayered Wood Flooring From the People's Republic of China

Requestor: Alston Inc. (''Alston''); Alston's two-ply hybrid flooring is not within the scope of the antidumping duty and countervailing duty orders; March 12, 2013.

A–570–967 and C–570–968: Aluminum Extrusions From the People's Republic of China

Requester: Tesla Wall System (''Tesla''); Tesla's curtain walls with non-Chinese extrusions are not within the scope of the antidumping duty and countervailing duty orders; March 14, 2013.

A–570–967 and C–570–968: Aluminum Extrusions from the People's Republic of China

Requester: Asia Sourcing Corporation (''ASC''); ASC's aluminum boat and dock ladders (''ladders''), models ESG2 and ASC4, are not within the scope of the antidumping and countervailing duty orders, and ASC's ladders, models ASE, ASH, and DJX3–W, and strip door mounting brackets are within the scope of the antidumping duty and countervailing duty orders; March 20, 2013.

Anticircumvention Determinations Made Between January 1, 2013, and March 31, 2013

People's Republic of China

A–570–916 and C–570–917: Laminated Woven Sacks from the People's Republic of China

Requestor: Laminated Woven Sacks Committee and its individual members; laminated woven sacks produced with two ink colors printed in register and a screening process are not circumventing the antidumping duty and countervailing duty orders; February 14, 2013.

A–570–894: Certain Tissue Paper Products from the People's Republic of China

Requestor: Seaman Paper Company of Massachusetts, Inc.; exports to the United States of certain tissue paper products produced in India by A.R. Printing & Packaging (India) Pvt. Ltd. from People's Republic of China-origin jumbo rolls and/or cut sheets of tissue paper are circumventing the antidumping duty order; preliminary determination February 27, 2013.

Interested parties are invited to comment on the completeness of this list of completed scope and anticircumvention inquiries. Any comments should be submitted to the Deputy Assistant Secretary for AD/CVD Operations, Import Administration, International Trade Administration, 14th Street and Constitution Avenue NW., APO/Dockets Unit, Room 1870, Washington, DC 20230.

[1] *See* 19 CFR 351.225(o).

[2] *See Notice of Scope Rulings,* 78 FR 32372 (May 30, 2013).

This notice is published in accordance with 19 CFR 351.225(o).

Dated: July 12, 2013.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2013–17260 Filed 7–17–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XB161

Marine Mammals; File No. 16992

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

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that a permit has been issued to Paul Nachtigall, Ph.D., Hawaii Institute of Marine Biology, University of Hawaii, P.O. Box 1106, Kailua, HI 96734 to conduct research on captive cetaceans.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)427–8401; fax (301)713–0376; and

Pacific Islands Region, NMFS, 1601 Kapiolani Blvd., Room 1110, Honolulu, HI 96814–4700; phone (808)944–2200; fax (808)973–2941.

FOR FURTHER INFORMATION CONTACT: Amy Sloan or Jennifer Skidmore, (301)427–8401.

SUPPLEMENTARY INFORMATION: On April 9, 2013, notice was published in the **Federal Register** (78 FR 21112) that a request for a permit to conduct research on captive cetaceans had been submitted by the above-named applicant. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*); and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

Permit No. 16992 authorizes research on basic hearing and echolocation in three bottlenose dolphins (*Tursiops truncatus*) and one false killer whale (*Pseudorca crassidens*) maintained in captivity at the Hawaii Institute of Marine Biology in Kaneohe, Hawaii. Researchers will conduct hearing measurements using suction cup sensors to monitor electrical signals in the brain in response to sound and echolocation clicks. Temporary threshold shift experiments will be conducted on one adult male bottlenose dolphin. The research is accomplished using trained behaviors in which the animals voluntarily participate and can leave the testing area at any time.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: July 12, 2013.

P. Michael Payne,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2013–17173 Filed 7–17–13; 8:45 am]

BILLING CODE 3510–22–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2009–0102]

Submission for OMB Review; Comment Request— Follow-Up Activities for Product-Related Injuries

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Consumer Product Safety Commission (Commission or CPSC) announces that it has submitted to the Office of Management and Budget (OMB) a request for extension of approval of a collection of information from persons who have been involved in or have witnessed incidents associated with consumer products.

DATES: Written comments on this request for extension of approval of information collection requirements should be submitted by August 19, 2013.

ADDRESSES: OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: CPSC Desk Officer, FAX: 202–395–6974, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified by Docket No. CPSC–2009–0102. In addition, written comments also should be submitted at *http://www.regulations.gov,* under Docket No. CPSC–2009–0102, or by mail/hand delivery/courier (for paper, disk, or CD–ROM submissions), preferably in five copies, to: Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923. For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Robert H. Squibb, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: 301–504–7923 or by email to *rsquibb@cpsc.gov.*

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 7, 2013 (78 FR 26618), the Consumer Product Safety Commission (CPSC or Commission) published a notice in accordance with provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) to announce the CPSC's intention to seek extension of approval of a collection of information on product-related injuries or incidents. No comments were received in response to that notice. Therefore, by publication of this notice, the Commission announces that it has submitted to the Office of Management and Budget (OMB) a request for extension of approval of that collection of information without change.

A. Background

Section 5(a) of the Consumer Product Safety Act, 15 U.S.C. 2054(a), requires the Commission to collect information related to the causes and prevention of death, injury, and illness associated with consumer products. That section also requires the Commission to conduct continuing studies and investigations of deaths, injuries, diseases, other health impairments, and economic losses resulting from accidents involving consumer products.

The Commission obtains information about product-related deaths, injuries, and illnesses from a variety of sources, including newspapers, death certificates, consumer complaints, and medical facilities. In addition, the Commission receives information through its Internet Web site through forms reporting on product-related injuries or incidents.

The Commission also operates a surveillance system known as the National Electronic Injury Surveillance System (NEISS) that provides timely data on consumer product-related injuries treated as well as U.S. childhood poisonings. NEISS data comes from a statistically valid sample from approximately 100 hospital emergency departments. The NEISS system has been in operation since

1971. NEISS emergency department records are reviewed by hospital employees or contractors (NEISS coders).

From these sources, Commission staff selects cases of interest for further investigation by face-to-face or telephone interviews with persons who witnessed, or were injured in, incidents involving consumer products. On-site investigations are usually made in cases where Commission staff needs photographs of the incident site, the product involved, or detailed information about the incident. This information can come from face-to-face interviews with persons who were injured or who witnessed the incident, as well as contact with state and local officials, including police, coroners, and fire investigators, and others with knowledge of the incident.

The Commission uses the information to support the development and improvement of voluntary standards; rulemaking proceedings; information and education campaigns; compliance and enforcement efforts and related administrative and judicial proceedings. Commission activities are, in many cases, data driven, and incident data is crucial in advancing the agency's mission.

OMB approved the collection of information concerning product-related injuries under control number 3041–0029. OMB's most recent extension of approval will expire on July 31, 2013. The Commission requests an extension of approval of this collection of information.

B. NEISS Estimated Burden

The NEISS system collects information on consumer-product related injuries from about 100 hospitals in the U.S. Respondents to NEISS include hospitals that directly report information to NEISS, and hospitals that allow CPSC contractors to collect the data on behalf of the agency. In FY 2012, there were a maximum of 150 NEISS contracts (total hospitals and CPSC contractors). NEISS coders collect and review all emergency records daily or weekly. During that year, NEISS coders reviewed an estimated 4.6 million emergency department records and reported approximately 400,000 consumer-product related injuries, of which 5,100 were childhood poisoning-related injuries. Each record takes approximately 15 seconds to review. Coding and reporting records that involve consumer product related injuries takes approximately 2.5 minutes per record. NEISS coders also spend about 36 hours per year in related activities (training, evaluations, and communicating with doctors and nurses if more detailed information is needed).

The total burden hours for collecting, reviewing and coding incident records and reports during FY 2012 are estimated to be 41,300. The average burden hour per hospital for FY 2012 is approximately 430 hours; however, the total burden hour on each hospital varies due to differences in size of the hospital (*e.g.,* small rural hospitals versus large metropolitan hospitals). For example, the smallest hospital reported approximately 150 cases with a burden of about 50 hours, while the largest hospital reported more than 17,500 cases with a burden of almost 1,400 hours.

The total contract costs for NEISS in FY 2012 are $1.7 million. Based on FY 2012 data, the average cost per respondent is estimated to be about $17,600. The average cost per burden hour is estimated to be $41 per hour (including wages and overhead); however, the actual cost to each respondent varies due to the type of respondent (hospital versus CPSC contractor), size of hospital, and regional differences in wages and overhead. Thus, the actual annual cost for any given respondent may vary between $1,000 at a small rural hospital and $78,000 at a large metropolitan hospital.

C. Other Burden Hours

In cases that require more information regarding product-related incidents or injuries, the staff conducted face-to-face interviews of approximately 550 persons during FY 2012. Such interviews may take place with the injured party, or a witness to the incident. On average, each on-site interview took about 4.5 hours. In FY 2012 Commission staff also conducted about 3700 in-depth investigations by telephone from the injured party or, in the case of a minor, the parents or guardian. Each such in-depth telephone investigation required approximately 20 minutes. Based on the FY 2012 data, staff estimates that this collection of information imposes a total annual hourly burden of 3,708 hours on all respondents: 2,475 hours for face-to-face interviews and 1,233 hours for in-depth telephone interviews. Commission staff estimates the value of the time required for reporting is $27.12 an hour (U.S. Bureau of Labor Statistics, ''Employer Costs for Employee Compensation,'' December 2012, Table 9, Total compensation for all sales and office workers in goods-producing industries: *http://www.bls.gov/ncs*). At this valuation, the estimated annual cost of the burden hours to the public is about $100,570.

This request for the approval of an estimated 45,008 (41,300 NEISS and 3,708 other) burden hours per year is a decrease of 4,697 hours since this collection of information was last approved by OMB in 2009. This decrease is due, in part, to the increased proportion of investigations being conducted by phone rather than on-site. In addition, to avoid duplication, this information collection request excludes the burden now associated with other publicly available Consumer Product Safety Information Databases, such as Internet complaints, Hotline, and the Medical Examiner and Coroners Alert Project reports. These information collections have been approved by OMB and are now collected under OMB Control No. 3041–0146.

The annual cost to the government of the information collection is estimated to be $3.3 million a year. This estimate includes approximately $1.7 million in contract costs to NEISS respondents (based on FY 2012 data). This estimate also includes $1.6 million for approximately 160 Commission staff months each year. The estimate of staff months includes the time required to oversee NEISS operations (*e.g.,* administration, training, quality control); conduct face-to-face and telephone interviews; and evaluate responses. Each month of professional staff time costs the Commission about $10,175. This is based on a GS–12 mid-level salaried employee. The average yearly wage rate for a mid-level salaried GS–12 employee in the Washington, DC metropolitan area (effective as of January 2011) is $84,855 (GS–12, step 5). This represents 69.5 percent of total compensation (U.S. Bureau of Labor Statistics, ''Employer Costs for Employee Compensation,'' December 2012, Table 1, percentage of wages and salaries for all civilian management, professional, and related employees: *http://www.bls.gov/ncs/*). Adding an additional 30.5 percent for benefits brings average yearly compensation for a mid-level salaried GS–12 employee to $122,094.

Dated: July 15, 2013.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2013–17248 Filed 7–17–13; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2013–ICCD–0094]

Agency Information Collection Activities; Comment Request; Fund for the Improvement of Postsecondary Education (FIPSE) Annual and Final Performance Reports

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing [insert one of the following: a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before September 16, 2013.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2013–ICCD–0094 or via postal mail, commercial delivery, or hand delivery. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E105, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: Electronically mail *ICDocketMgr@ed.gov.* Please do not send comments here.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Fund for the Improvement of Postsecondary Education (FIPSE) Annual and Final Performance Reports.

OMB Control Number: 1840–0793.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Private Sector.

Total Estimated Number of Annual Responses: 347.

Total Estimated Number of Annual Burden Hours: 4,870.

Abstract: The Fund for the Improvement of Postsecondary Education (FIPSE) works to improve postsecondary education through grants to postsecondary educational institutions and agencies. Such grants are awarded to non-profit organizations on the basis of competitively reviewed applications submitted to FIPSE under its Comprehensive and Special Focus Competition Program grant competitions. This collection includes a final performance report for use with all of the following Fund for the Improvement of Postsecondary Education (FIPSE) programs: Comprehensive(84.116B), European Union-United States (84.116J), US-Brazil (84.116M), North America (84.116N), and US-Russia (84.116S). Also included is a final performance report for Congressionally-directed grants (earmarks)(84.116Z). We request clearance of one annual report for the Comprehensive program (84.116B). A total of three (3) forms comprise this collection. We need to collect this data in order to evaluate and assess each grantee for continued funding and assessment of their project.

Dated: July 15, 2013.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2013–17249 Filed 7–17–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; National Institute on Disability and Rehabilitation Research—Rehabilitation Research and Training Centers

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

Overview Information: National Institute on Disability and Rehabilitation Research (NIDRR)—Disability and Rehabilitation Research Projects and Centers Program—Rehabilitation Research and Training Centers—Community Living Policy Notice inviting applications for new awards for fiscal year (FY) 2013.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.133B–11.

DATES: *Applications Available:* July 18, 2013.

Date of Pre-Application Meeting: August 8, 2013.

Deadline for Transmittal of Applications: September 3, 2013.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the Disability and Rehabilitation Research Projects and Centers Program is to plan and conduct research, demonstration projects, training, and related activities, including international activities, to develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities, and to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (Rehabilitation Act).

Rehabilitation Research and Training Centers (RRTCs)

The purpose of the RRTCs, which are funded through the Disability and Rehabilitation Research Projects and Centers Program, is to achieve the goals of the Rehabilitation Act through advanced research, training, technical assistance, and dissemination activities in general problem areas, as specified by NIDRR. These activities are designed to benefit rehabilitation service providers, individuals with disabilities, and the family members or other authorized representatives of individuals with

disabilities. Additional information on the RRTC program can be found at: *www.ed.gov/rschstat/research/pubs/res-program.html#RRTC*.

Priorities: There are two priorities for this competition. One priority is from the notice of final priority for this program, published elsewhere in this issue of the **Federal Register**. The other priority—the General RRTC Requirements priority—is from the notice of final priorities for the Disability and Rehabilitation Research Projects and Centers Program, published in the **Federal Register** on February 1, 2008 (73 FR 6132), and it applies to all RRTC competitions.

Absolute Priorities: For FY 2013 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, these priorities are absolute priorities. Under 34 CFR 75.105(c)(3) we consider only applications that meet both of these priorities.

These priorities are:

Priority 1—Community Living Policy

Note: The full text of this priority is included in the notice of final priority published elsewhere in this issue of the **Federal Register** and in the application package for this competition.

Priority 2—General RRTC Requirements

Note: The full text of this priority is included in the notice of final priorities for the Disability and Rehabilitation Research Projects and Centers Program, published in the **Federal Register** on February 1, 2008 (73 FR 6132), and in the application package for this competition.

Program Authority: 29 U.S.C. 762(g) and 764(b)(2).

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 74, 75, 77, 80, 81, 82, 84, 86, and 97. (b) The Education Department suspension and debarment regulations in 2 CFR part 3485. (c) The regulations for this program in 34 CFR part 350. (d) The notice of final priorities for the Disability and Rehabilitation Research Projects and Centers Program published in the **Federal Register** on February 1, 2008 (73 FR 6132). (e) The notice of final priority for this program, published elsewhere in this issue of the **Federal Register**.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education (IHEs) only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $875,000.

Maximum Award: We will reject any application that proposes a budget exceeding $875,000 for a single budget period of 12 months. The Assistant Secretary for the Office of Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register**.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* States; public or private agencies, including for-profit agencies; public or private organizations, including for-profit organizations; IHEs; and Indian tribes and tribal organizations.

2. *Cost Sharing or Matching:* This competition does not require cost sharing or matching.

IV. Application and Submission Information

1. Address To Request Application Package

You can obtain an application package via the Internet or from the Education Publications Center (ED Pubs). To obtain a copy via the Internet, use the following address: *www.ed.gov/fund/grant/apply/grantapps/index.html*. To obtain a copy from ED Pubs, write, fax, or call the following: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov*.

If you request an application from ED Pubs, be sure to identify this program as follows: CFDA number 84.133B–11.

Individuals with disabilities can obtain a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the person or team listed under *Accessible Format* in section VIII of this notice.

2. Content and Form of Application Submission

Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you limit Part III to the equivalent of no more than 100 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 recommended page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the recommended page limit does apply to all of the application narrative section (Part III).

An applicant should consult NIDRR's Long-Range Plan for Fiscal Years 2013–2017 (78 CFR 20299) (Plan) when preparing its application. The Plan is organized around the following research domains: (1) Community Living and Participation; (2) Health and Function; and (3) Employment.

3. Submission Dates and Times

Applications Available: July 18, 2013.

Date of Pre-Application Meeting: Interested parties are invited to participate in a pre-application meeting and to receive information and technical assistance through individual consultation with NIDRR staff. The pre-application meeting will be held on August 8, 2013. Interested parties may participate in this meeting by conference call with NIDRR staff from the Office of Special Education and Rehabilitative Services between 1:00 p.m. and 3:00 p.m., Washington, DC time. NIDRR staff also will be available from 3:30 p.m. to 4:30 p.m., Washington, DC time, on the same day, by telephone, to provide information and technical assistance through individual consultation. For further information or to make arrangements to participate in the meeting via conference call or to arrange for an individual consultation, contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

Deadline for Transmittal of Applications: September 3, 2013.

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 section IV. 7. *Other Submission Requirements* 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.

4. *Intergovernmental Review:* This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management

To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry (CCR)), 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. A DUNS number can be created within one business day.

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 2–5 weeks for your TIN to become active.

The SAM registration process may take seven or more business days to complete. If you are currently registered with the 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 to complete. Information about SAM is available at SAM.gov.

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/applicants/get_registered.jsp.*

7. *Other Submission Requirements:* Applications for grants under the program must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the Community Living Policy RRTC program, CFDA number 84.133B–11, 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 Community Living Policy RRTC program at *www.Grants.gov.* You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.133, not 84.133B).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this program to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov.*
- 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 PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material. Additional, detailed information on how to attach files is in the application instructions.

• Your electronic application must comply with any page-limit requirements described in this notice.

• After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (a Department-specified identifying number unique to your application).

• 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 that problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on 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: Marlene Spencer, U.S. Department of Education, 400 Maryland Avenue SW., Room 5133, Potomac Center Plaza (PCP), Washington, DC 20202–2700. FAX: (202) 245–7323.

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 84.133B–11), 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.

If your application is postmarked after the application deadline date, we will not consider your application.

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 84.133B–11), 550 12th Street SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the program 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 program are from 34 CFR 350.54 and are listed in the application package.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also 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. *Special Conditions:* Under 34 CFR 74.14 and 80.12, the Secretary may impose special 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 34 CFR parts 74 or 80, as applicable; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year 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.*

4. *Performance Measures:* To evaluate the overall success of its research program, NIDRR assesses the quality of its funded projects through a review of grantee performance and products. Each year, NIDRR examines a portion of its grantees to determine:

- The number of products (e.g., new or improved tools, methods, discoveries, standards, interventions, programs, or devices developed or tested with NIDRR funding) that have been judged by expert panels to be of high quality and to advance the field.
- The average number of publications per award based on NIDRR-funded research and development activities in refereed journals.
- The percentage of new NIDRR grants that assess the effectiveness of interventions, programs, and devices using rigorous methods.

NIDRR uses information submitted by grantees as part of their Annual Performance Reports for these reviews.

Department of Education program performance reports, which include information on NIDRR programs, are available on the Department's Web site: *www.ed.gov/about/offices/list/opepd/sas/index.html.*

5. *Continuation Awards:* In making a continuation award, the Secretary may consider, under 34 CFR 75.253, the extent to which a grantee has made ''substantial progress toward meeting the objectives in its approved application.''

This consideration includes the review of a grantee's progress in meeting the targets and projected outcomes in its approved application, and whether the grantee has expended funds in a manner that is consistent with its approved application and budget. In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Marlene Spencer, U.S. Department of Education, 400 Maryland Avenue SW., room 5133, PCP, Washington, DC 20202–2700. Telephone: (202) 245–7532 or by email: *marlene.spencer@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) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue SW., room 5075, PCP, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD or a TTY, call the FRS, toll-free, at 1–800–877–8339.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe 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: July 15, 2013.

Michael K. Yudin,

Delegated the authority to perform the functions and the duties of the Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2013–17272 Filed 7–17–13; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9834–6; Docket ID Number EPA–HQ–OECA–2013–0170]

Clean Water Act Class II: Proposed Administrative Settlement, Penalty Assessment and Opportunity To Comment Regarding T-Mobile US, Inc., Successor by Merger to MetroPCS Communications, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has entered into a Consent Agreement with T-Mobile US, Inc. (T-Mobile US), which formed following the merger of MetroPCS Communications, Inc. (MetroPCS) and T-Mobile USA, Inc. (T-Mobile USA), to resolve violations of the Clean Water Act (CWA), the Emergency Planning and Community Right-to-Know Act (EPCRA), the Clean Air Act (CAA), the Resource Conservation and Recovery Act (RCRA), and their implementing regulations.

The Administrator is hereby providing public notice of this Consent Agreement and proposed Final Order (CAFO), and providing an opportunity for interested persons to comment on the CWA, EPCRA, CAA and RCRA portions of the CAFO, pursuant to CWA Section 311(b)(6)(C), 33 U.S.C. 1321(b)(6)(C). Upon closure of the public comment period, the CAFO and any public comments will be forwarded to the Agency's Environmental Appeals Board (EAB).

DATES: Comments are due on or before August 19, 2013.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OECA–2013–0170, by one of the following methods:

- *www.regulations.gov:* Follow the online instructions for submitting comments.
- *Email: docket.oeca@epa.gov,* Attention Docket ID No. EPA–HQ–OECA–2013–0170.
- *Fax:* (202) 566–9744, Attention Docket ID No. EPA–HQ–OECA–2013–0170.
- *Mail:* Enforcement and Compliance Docket Information Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Avenue NW., Washington, DC, 20460, Attention Docket ID No. EPA–HQ–OECA–2013–0170.
- *Hand Delivery:* Enforcement and Compliance Docket Information Center in the EPA Docket Center (EPA/DC), EPA West, Room B 3334, 1301 Constitution Avenue NW., Washington, DC The EPA Docket Center 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 Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1927. Such deliveries are only accepted during the Docket'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–OECA–2013–0170. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov.* The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through www.regulations.gov, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

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 at *www.regulations.gov* or in hard copy at the Enforcement and Compliance Docket Information Center in the EPA Docket Center (EPA/DC), EPA West, Room B 3334, 1301 Constitution Avenue NW., Washington, DC The EPA Docket Center 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 Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1927.

FOR FURTHER INFORMATION CONTACT: Michael Calhoun, Special Litigation and Projects Division (2248–A), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone: (202) 564–6031; fax: (202) 564–9001; and email: *calhoun.michael@epa.gov.*

Background

This proposed settlement agreement is the result of voluntary disclosures of CWA, EPCRA, CAA, and RCRA violations by MetroPCS to the Special Litigation and Projects Division (SLPD) in the Office of Civil Enforcement. MetroPCS was a wireless telecommunications company that used Distributed Antenna System (DAS) network facilities to provide wider wireless coverage and increase indoor WiFi capacity where alternate technologies are infeasible due to terrain or zoning challenges for cell tower placement. T-Mobile US is a telecommunications company organized under the laws of the State of Delaware which formed as a result of the May 1, 2013 merger of MetroPCS and T-Mobile USA.

On December 31, 2009, EPA and MetroPCS entered into a corporate audit agreement pursuant to EPA's policy on *Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations* (Audit Policy), 65 FR 19618 (Apr. 11, 2000), regarding 88 office buildings, warehouses, and DAS facilities located in 11 states (first phase). EPA and MetroPCS subsequently amended the audit agreement on November 4, 2010, to add to the audit 11,715 cell site facilities and two switch sites located in 15 states (second phase). A final list of all disclosed and corrected violations is provided in Attachment A to the CAFO.

Proposed Settlement

EPA determined that MetroPCS' disclosures satisfied all the conditions set forth in the Audit Policy, and therefore qualify for a 100% reduction of the civil penalty's gravity component. Pursuant to the settlement agreement, EPA proposes to waive the gravity-based penalty. T-Mobile US has agreed to pay

a civil penalty of $16,913 for the violations identified in Attachment A. This figure is the calculated economic benefit of noncompliance based on information provided by MetroPCS and use of the Economic Benefit (BEN) computer model. Of this amount, $11,441 is attributable to EPCRA violations, $3,777 is attributable to CWA violations, $1,543 is attributable to CAA violations, and $152 is attributable to RCRA violations.

EPA and T-Mobile US negotiated the proposed Consent Agreement in accordance with the Consolidated Rules of Practice, 40 CFR Part 22, specifically 40 CFR 22.13(b) and 22.18(b) (In re: T-Mobile US, Inc., EPCRA–HQ–2013–8004; CWA–HQ–2013–8004; CAA–HQ–2013–8004; and RCRA–HQ–2013–8004). This Consent Agreement is subject to public notice and comment under Section 311(b)(6)(C) of the CWA, 33 U.S.C. 1321(b)(6)(C). The procedures by which the public may comment on a proposed CWA Class II penalty order, or participate in a Class II penalty proceeding, are set forth in 40 CFR 22.45. The deadline for submitting public comment on this proposed final order is August 19, 2013. All comments will be transferred to the EAB for consideration. The EAB's powers and duties are outlined in 40 CFR 22.4(a).

Disclosed and Corrected Violations

CWA

MetroPCS violated CWA Section 311(j), 33 U.S.C. 1321(j), and the regulations found at 40 CFR Part 112, because it failed to prepare and implement Spill Prevention, Control, and Countermeasure (SPCC) Plans for two facilities identified in Attachment A (720 2nd St, Suite 1200, Oakland, CA 94607 and 2990 Gateway Drive, Suite 950, Norcross, GA 30071).

Under CWA Section 311(b)(6)(A), 33 U.S.C. 1321(b)(6)(A), any owner, operator, or person in charge of a vessel, onshore facility, or offshore facility from which oil is discharged in violation of CWA Section 311(b)(3), 33 U.S.C. 1321(b)(3), or who fails or refuses to comply with any regulations that have been issued under CWA Section 311(j), 33 U.S.C. 1321(j), may be assessed an administrative civil penalty of up to $177,500 by EPA. Class II proceedings under CWA Section 311(b)(6) are conducted in accordance with 40 CFR Part 22. As authorized by CWA Section 311(b)(6), 33 U.S.C. 1321(b)(6), EPA has assessed a civil penalty for these violations.

Pursuant to CWA Section 311(b)(6)(C), 33 U.S.C. 1321(b)(6)(C), EPA will not issue an order in this proceeding prior to the close of the public comment period.

EPCRA

MetroPCS disclosed that it violated Sections 302(c) and 303(d) of EPCRA, 42 U.S.C. 11002(c) and 11003(d), and the implementing regulations found at 40 CFR Part 355, at 24 facilities listed in Attachment A when it failed to properly provide emergency planning notifications for these facilities. Such notification is mandatory when extremely hazardous substances are present at a facility in an amount equal to or greater than the materials' threshold planning quantities. These violations constitute one-time violations.

MetroPCS violated Section 311(a) of EPCRA, 42 U.S.C. 11021(a), and the implementing regulations found at 40 CFR Part 370, at 24 facilities listed in Attachment A when it failed to submit a Material Safety Data Sheet(s) (MSDS) for a hazardous chemical(s) and/or an extremely hazardous substance(s) or, in the alternative, a list of such chemicals, to the local emergency planning committee (LEPC), the state emergency response commission (SERC), and the fire department with jurisdiction over these facilities. In addition, MetroPCS disclosed that it violated Section 312(a) of EPCRA, 42 U.S.C. 11022(a), and the regulations found at 40 CFR Part 370, at 24 facilities listed in Attachment A by failing to prepare and submit emergency and chemical inventory forms (Tier I or Tier II, as described in 40 CFR Part 370) to the LEPC, SERC, and the fire department with jurisdiction over these facilities.

Under EPCRA Section 325, 42 U.S.C. 11045, the Administrator may issue an administrative order assessing a civil penalty against any person who has violated applicable emergency planning or right-to-know requirements, or any other requirement of EPCRA. Proceedings under EPCRA Section 325 are conducted in accordance with 40 CFR Part 22. EPA, as authorized by EPCRA Section 325, 42 U.S.C. 11045, has assessed a civil penalty for these violations.

CAA

MetroPCS violated the federally-approved New Jersey and Pennsylvania State Implementation Plan (SIP) requirements for failure to comply with recordkeeping and permitting requirements for its emergency generators at five facilities listed in Attachment A. Section 110(a)(1) of the CAA, 42 U.S.C. 7410(a)(1), requires states to submit plans to implement, maintain, and enforce ambient air quality standards. Both the New Jersey and Pennsylvania SIPs include requirements approved by EPA under Section 110 of the CAA, 42 U.S.C. 7410. As detailed below, these provisions were incorporated into the respective SIPs and are therefore federally-enforceable.

At the time of the violations, the New Jersey SIP included a provision, N.J.A.C. 7:27 Section 19.11, stating that emergency generators are subject to specific on-site recordkeeping requirements, effective March 7, 2007. This provision was federally-approved on July 31, 2007, and became federally-enforceable on August 30, 2007 (72 Fed. Reg. 41626). MetroPCS owned or operated a facility in Pennsauken, New Jersey that failed to keep on-site operating records for its emergency generator in accordance with N.J.A.C. 7:27 Section 19.11.

At the time of the violations, the Pennsylvania SIP included a provision, City of Philadelphia Air Management Regulation I, Section II, stating that air contaminant sources must apply for an installation permit and operating license. This provision was federally-approved and became federally-enforceable on May 4, 1974 (40 Fed. Reg. 41787). MetroPCS owned or operated four (4) facilities in Philadelphia, Pennsylvania that failed to apply for an installation permit and operating license as required by the City of Philadelphia Air Management Regulation I, Section II.

MetroPCS violated the federally-approved SIP requirements which were approved by EPA pursuant to CAA Section 110, 42 U.S.C. 7410. MetroPCS is therefore subject to federal enforcement under CAA Section 113(d), 42 U.S.C. 7413(d). EPA, as authorized by CAA Section 113(d), 42 U.S.C. 7413(d), may assess a civil penalty for these violations. Under CAA Section 113(d), 42 U.S.C. 7413(d), the Administrator may issue an administrative order assessing a civil penalty against any person who has violated an applicable requirement of the CAA, including any rule, order, waiver, permit or plan. Proceedings under CAA Section 113(d) are conducted in accordance with 40 CFR Part 22. EPA, as authorized by the CAA, has assessed a civil penalty for these violations.

RCRA

MetroPCS violated Section 3002 of RCRA, 42 U.S.C. 6922, and the regulations found at 40 CFR 273.13—.15 (universal waste requirements for the storage, labeling, and inventory of lamps and batteries), and the federally-

authorized state regulations at one facility in Florida (Fla. Admin. Code Ann. R. 62–730.185), one facility in Georgia (Section 391–3–11.18 of the Georgia Hazardous Waste Management Rules (GHWMR)), and one facility in New York (Title 6 of the New York Codes, Rules, and Regulations, Section 374–3.2), as identified in Attachment A. MetroPCS also disclosed that it violated Section 3002 of RCRA, 42 U.S.C. 6922, and the regulations found at 40 CFR 273.16, at one facility in Florida (Fla. Admin. Code Ann. R. 62–730.185) and one facility in Georgia (Section 391–3–11.18 of the GHWMR), by failing to train employees in proper identification and management of universal waste. Proceedings under RCRA Section 3008, 42 U.S.C. 6928, are conducted in accordance with 40 CFR Part 22. EPA, as authorized by RCRA Section 3008(g), 42 U.S.C. 6928(g), has assessed a civil penalty for these violations.

List of Subjects

Environmental Protection.

Dated: June 21, 2013.

Andrew R. Stewart,

Acting Director, Special Litigation and Projects Division, Office of Civil Enforcement, Office of Enforcement and Compliance Assurance.

[FR Doc. 2013–17302 Filed 7–17–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9835–1]

Notification of a Public Meeting of the Great Lakes Advisory Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) announces a public meeting and teleconference of the Great Lakes Advisory Board (GLAB). The meeting will be held on July 23, 2013 in Chicago, Illinois.

DATES: The public meeting will be held on Tuesday, July 23, 2013 from 10:00 a.m. to 3:00 p.m. (Central Daylight Time). Due to budgetary uncertainties, EPA is announcing this meeting with less than 15 calendar days public notice.

ADDRESSES: The meeting will be held at the EPA Region 5 Offices, Lake Superior Room, in the Ralph H. Metcalfe Federal Building, 77 W. Jackson Boulevard, Chicago, Illinois, 60604. The teleconference number is (877) 744–6030.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information regarding this meeting may contact Rita Cestaric, Designated Federal Officer (DFO) for the Great Lakes Advisory Board by telephone at (312) 886–6815 or email at *cestaric.rita@epa.gov.* General information on the Great Lakes Restoration Initiative (GLRI) and the GLAB can be found on the GLRI Web site at *http://www.glri.us.*

SUPPLEMENTARY INFORMATION: The GLAB is a federal advisory committee chartered under the Federal Advisory Committee Act (FACA), Public Law 92–463. EPA established the GLAB in 2012 to provide independent, consensus advice on Great Lakes restoration to the EPA Administrator in his or her capacity as Chair of the Interagency Task Force. The GLAB conducts business in accordance with FACA and related regulations.

The GLAB consists of 18 members, including a chairperson, appointed by EPA's Administrator. Members serve as representatives of state, local and tribal government, environmental groups, agriculture, business, transportation, foundations, educational institutions and as technical experts.

Background: EPA is leading an interagency Great Lakes Restoration Initiative (GLRI) to protect and restore the Great Lakes. To guide the efforts of the GLRI, EPA and its federal partners developed a comprehensive action plan for fiscal years 2010 through 2014. The GLAB held a meeting on May 21 and 22, 2013 and a teleconference on June 12, 2013, to discuss refinements to the existing GLRI Action Plan that will inform the development of a draft FY 2015–2019 Action Plan. The purpose of the July 23, 2013 meeting is for the GLAB to discuss its recommendations.

Also, periodic opportunities for the public to provide input to the GLAB for consideration will be provided after the July 23, 2013 public meeting.

Availability of Meeting Materials: The agenda and other materials in support of the meeting will be available on the GLRI Web site at *http://www.glri.us.*

Procedures for Providing Public Input: Federal advisory committee members provide independent advice to federal agencies. Members of the public can submit relevant comments for consideration by the GLAB. Input from the public will have the most impact if it provides specific information for the GLAB to consider. Members of the public wishing to provide public comment should contact the DFO directly.

Oral Statements: In general, individuals or groups requesting to make an oral presentation at this public meeting will be limited to three minutes per speaker, subject to the number of people wanting to comment. Interested parties should contact Rita Cestaric in writing (preferably via email) at the contact information noted above by July 19, 2013 to be placed on the list of public speakers for the meeting.

Written Statements: Written statements must be received by July 19, 2013 so that the information may be made available to the GLAB for consideration. Written statements should be supplied to the DFO in the following formats: One hard copy with original signature and one electronic copy via email. Commenters are requested to provide two versions of each document submitted: One each with and without signatures because only documents without signatures may be published on the GLRI Web page.

Accessibility: For information on access or services for individuals with disabilities, please contact Rita Cestaric at the phone number or email address above, preferably at least seven days before the meeting, to give EPA as much time as possible to publish your request.

Dated: July 10, 2013.

Susan Hedman,

Great Lakes National Program Manager.

[FR Doc. 2013–17292 Filed 7–17–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R07–SFUND–2013–0462; FRL–9833–3]

Proposed Administrative Cost Recovery Settlement Under the Comprehensive Environmental Response Compensation and Liability Act, as Amended, Carter Carburetor Superfund Site, St. Louis, Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response Compensation and Liability Act, as amended (CERCLA), notice is hereby given of a proposed administrative settlement with ACF Industries, LLC, St. Louis, Missouri, for the compromise of past and projected future oversight costs concerning the Carter Carburetor Superfund Site in St. Louis, Missouri. The settlement includes a covenant not to sue with the settling party pursuant to Section 107(a) of CERCLA. For thirty

(30) days following the date of publication of this notice, EPA will receive written comments relating to the compromise of costs component of the settlement. EPA will consider all comments and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the compromise of costs is inappropriate, improper, or inadequate. EPA's response to any comments received will be available for public inspection at the EPA Region 7 office located at 11201 Renner Boulevard, Lenexa, Kansas 66219.

DATES: Comments must be submitted on or before August 19, 2013.

ADDRESSES: The proposed settlement is available for public inspection at the EPA Region 7 office, 11201 Renner Boulevard, Lenexa, Kansas, Monday through Friday, between the hours of 8:00 a.m. through 4:00 p.m. A copy of the proposed settlement may be obtained from the Regional Hearing Clerk, 11201 Renner Boulevard, Lenexa, Kansas 66219, (913) 551–7567. Requests should reference the Carter Carburetor Superfund Site, EPA Docket No. CERCLA–07–2013–0008. Comments should be addressed to: J. Scott Pemberton, Senior Assistant Regional Counsel, 11201 Renner Boulevard, Lenexa, Kansas 66219.

FOR FURTHER INFORMATION CONTACT: J. Scott Pemberton, at telephone: (913) 551–7276; fax number: (913) 551–7925/ Attn: J. Scott Pemberton; email address: *pemberton.scott@epa.gov.*

Dated: June 26, 2013.

Cecilia Tapia,

Director, Superfund Division, EPA Region 7.

[FR Doc. 2013–17304 Filed 7–17–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9834–9]

Public Water Supply Supervision Program; Program Revision for the State of Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of tentative approval.

SUMMARY: Notice is hereby given that the State of Oregon has revised its approved State Public Water Supply Supervision Primacy Program. Oregon has adopted regulations analogous to EPA's Stage 2 Disinfectants and Disinfection Byproducts Rule; Long Term 2 Enhanced Surface Water Treatment Rule; Ground Water Rule; and Lead and Copper Short-Term Regulatory Revisions and Clarifications Rule and has adopted revisions to their Variance regulation. EPA has determined that these revisions are no less stringent than the corresponding federal regulations. Therefore, EPA intends to approve these State program revisions. By approving these rules, EPA does not intend to affect the rights of federally recognized Indian tribes within ''Indian country'' as defined by 18 U.S.C. 1151, nor does it intend to limit existing rights of the State of Oregon.

DATES: All interested parties may request a public hearing. A request for a public hearing must be submitted by August 19, 2013 to the Regional Administrator at the EPA address shown below. Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request for a public hearing is made by August 19, 2013, a public hearing will be held. If no timely and appropriate request for a hearing is received and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become final and effective on August 19, 2013. Any request for a public hearing shall include the following information: (1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing; (2) a brief statement of the requesting person's interest in the Regional Administrator's determination and a brief statement of the information that the requesting person intends to submit at such hearing; (3) the signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

ADDRESSES: All documents relating to this determination are available for inspection between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, at the Oregon Health Authority, Drinking Water Program, 800 N.E. Oregon Street, Suite 640, Portland, Oregon 97232 and between the hours of 9:00 a.m.–12:00 p.m. and 1:00–4:00 p.m. at the EPA Region 10 Library, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Wendy Marshall, EPA Region 10, Drinking Water Unit, by mail at the Seattle address given above, by telephone at (206) 553–1890, or by email at *marshall.wendy@epa.gov.*

Authority: Section 1413 of the Safe Drinking Water Act, as amended (1996), and 40 CFR Part 142 of the National Primary Drinking Water Regulations.

Dated: June 27, 2013.

Dennis J. McLerran,

Regional Administrator.

[FR Doc. 2013–17266 Filed 7–17–13; 8:45 am]

BILLING CODE 6560–50–P

GOVERNMENT ACCOUNTABILITY OFFICE

Health Information Technology Policy Committee Vacancy

AGENCY: Government Accountability Office (GAO).

ACTION: Notice on letters of nomination to fill vacancy.

SUMMARY: The American Recovery and Reinvestment Act of 2009 (ARRA) established the Health Information Technology Policy Committee (Health IT Policy Committee) and gave the Comptroller General responsibility for appointing 13 of its 20 members. ARRA requires that one member have expertise in health information privacy and security. Due to a vacancy on the Committee, GAO is accepting nominations of individuals to fill this position. For this appointment I am announcing the following: Letters of nomination and resumes should be submitted between July 15 and August 9, 2013 to ensure adequate opportunity for review and consideration of nominees.

ADDRESSES:

GAO: HITCommittee@gao.gov.

GAO: 441 G Street NW., Washington, DC 20548.

FOR FURTHER INFORMATION CONTACT: GAO: Office of Public Affairs, (202) 512–4800. 42 U.S.C. 300jj–12.

Gene L. Dodaro,

Comptroller General of the United States.

[FR Doc. 2013–17114 Filed 7–17–13; 8:45 am]

BILLING CODE 1610–02–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: HHS–EGOV–15380–30D]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Public Comment Request

AGENCY: Electronic Government Office, HHS.

ACTION: Notice.

SUMMARY: In compliance with section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Electronic Government Office (EGOV), Department of Health and Human Services, has submitted an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB) for review and approval. The ICR is for reinstatement of a previously-approved information collection assigned OMB control number 4040–0010, which expired on August 31, 2011. The ICR also requests categorizing the form as a common form, meaning HHS will only request approval for its own use of the form rather than aggregating the burden estimate across all Federal Agencies as was done for previous actions on this OMB control number. The SF–424 Project Abstract form and the SF–424 Key Contacts form were previously assigned to OMB control number 4040–0003. EGOV seeks to move these two instruments to the OMB control number 4040–0010. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public on this ICR during the review and approval period.

DATES: Comments on the ICR must be received on or before August 19, 2013.

ADDRESSES: Submit your comments to *OIRA_submission@omb.eop.gov* or via facsimile to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the OMB control number 4040–0010 and document identifier HHS–EGOV–15380–30D for reference.

Information Collection Request Title: SF–424 Project/Performance Site Location(s) Form.

OMB No.: 4040–0010.

Abstract: This reinstatement request covers the following forms: The SF–424 Project/Performance Site Location(s) form, Project Abstract Form, and Key Contacts form. These forms are common forms used by all Federal grant-making agencies for applicants to apply for Federal financial assistance.

Need and Proposed Use of the Information: The SF–424 Project/Performance Site Location(s) form, Project Abstract Form, and Key Contacts form are used by the public to apply for Federal financial assistance in the form of grants. These forms are submitted to the Federal grant-making agencies for evaluation and review.

Likely Respondents: Organizations and institutions seeking grants.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions, to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information, to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information, and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

HHS estimates that the SF–424 Project Performance Site Location(s) form, The SF–424 Project Abstract, and the SF–424 Key Contacts form will take each take 0.5 hours to complete. We expect that a total of 137,818 respondents will use these forms. Once OMB approves the use of this common form, federal agencies may request OMB approval to use this common form without having to publish notices and request public comments for 60 and 30 days. Each agency must account for the burden associated with their use of the common form.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
SF–424 Project Abstract Form	349	1	0.5	174.5
SF–424 Key Contacts	61	1	0.5	30.5
SF–424 Performance/Site Location	137,408	1	0.5	68,704
Total	137,818			68,909

Keith A. Tucker,

Information Collection Clearance Officer.

[FR Doc. 2013–17219 Filed 7–17–13; 8:45 am]

BILLING CODE 4151–AE–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: HHS–OS–19060–30D]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, has submitted an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB) for review and approval. The ICR is for a new collection. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public on this ICR during the review and approval period.

DATES: Comments on the ICR must be received on or before August 19, 2013.

ADDRESSES: Submit your comments to *OIRA_submission@omb.eop.gov* or via facsimile to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the Information Collection Request Title and the document identifier HHS–OS–19060–30D for reference.

Information Collection Request Title: Living Healthier, Living Longer Program Evaluation.

Abstract: The Department of Health and Human Services (HHS), the Office of Women's Health, (OWH)

Coordinating Committee on Lesbian, Gay, Bi-sexual and Transgender (LGBT) Issues has prioritized the collection of health data on LGBT populations. In response, OWH funded an initiative to ''identify and test effective and innovative ways of reducing obesity in lesbian and bisexual women''. This initiative will include nutritional and physical activity counseling and activities, and will be implemented in New York City. It will be tailored to bisexual and lesbian women forty years and over. Evaluation of the initiative will address the following questions: (1) Does a healthy weight intervention based on the individual and the social environment improve health and reduce weight of older lesbian and bisexual women; and, (2) If the intervention does improve health and/or reduce weight, what attributes of the intervention contributed to this success? Information will be gathered and analyzed in an effort to identify and understand the effects of this healthy weight intervention and to inform the applicability of the intervention to other sites across the United States. The project is scheduled for one year.

Need and Proposed Use of the Information: Addresses barriers to health for the LB community, and promotes overall health and wellbeing. The intervention will incorporate community-identified weight loss/risk reduction needs of this population. Following the completion of the surveys and interventions, collected data will be used to develop increased health-related services and activities for LB women, web-based tools and materials for LB women, increased community recreation resources inclusive of sexual minority women.

Likely Respondents: Lesbian and bi-sexual women forty years of age and older.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions, to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information, to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information, and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Baseline Survey	40	1	15/60	600/60 (10 hours).
Study Completion Survey	40	1	15/60.	600/60 (10 hours).
Pedometer Profile	40	1	2/60	80/60 (1 hour).
Health Screen (physical measurement)	40	3	10/60	1,200/60 (20 hours).
Health History Questionnaire	40	1	12/60	480/60 (8 hours).
Focus Group (study midpoint)	40	1	1	40 hours.
Focus Group (study completion)	40	1	1	40 hours.
Total				129 hours.

Keith A. Tucker,

Information Collection Clearance Officer.

[FR Doc. 2013–17218 Filed 7–17–13; 8:45 am]

BILLING CODE 4150–33–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: HHS–EGOV–16926–30D]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Public Comment Request

AGENCY: Electronic Government Office, HHS.

ACTION: Notice.

SUMMARY: In compliance with section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Electronic Government Office (EGOV), Department of Health and Human Services, has submitted an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB) for review and approval. The ICR is for reinstatement of a previously-approved information collection assigned OMB control number 4040–0003, which expired on November 30, 2011. The ICR also requests categorizing the form as a common form, meaning HHS will only request approval for its own use of the form rather than aggregating the burden estimate across all Federal Agencies as was done for previous actions on this OMB control number. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public on this ICR during the review and approval period.

DATES: Comments on the ICR must be received on or before August 19, 2013.

ADDRESSES: Submit your comments to *OIRA_submission@omb.eop.gov* or via facsimile to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the OMB control number 4040–0003 and document identifier HHS–EGOV–16926–30D for reference.

Information Collection Request Title: SF–424 Application for Federal Assistance Short Form.

OMB No.: 4040–0003.

Abstract: The SF–424 Application for Federal Assistance Short Form is a common form used by Federal grant-

making agencies for applicants to apply for Federal financial assistance.

Need and Proposed Use of the Information: The SF–424 Application for Federal Assistance Short Form is used by the public to apply for Federal financial assistance in the form of grants. These forms are submitted to the Federal grant-making agencies for evaluation and review.

Likely Respondents: Organizations and institutions seeking grants.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions, to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information, to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information, and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

HHS estimates that the SF–424 Application for Federal Assistance Short Form will take 1 hour to complete.

Once OMB approves the use of this common form, federal agencies may request OMB approval to use this common form without having to publish notices and request public comments for 60 and 30 days. Each agency must account for the burden associated with their use of the common form.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
SF–424 Application for Federal Assistance	1	1	1	1
Total	1			1

Keith A. Tucker,

Information Collection Clearance Officer.

[FR Doc. 2013–17220 Filed 7–17–13; 8:45 am]

BILLING CODE 4151–AE–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: HHS–OS–19158–30–D]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, has submitted an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB) for review and approval. The ICR is for a new collection. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public on this ICR during the review and approval period.

DATES: Comments on the ICR must be received on or before August 19, 2013.

ADDRESSES: Submit your comments to *OIRA_submission@omb.eop.gov* or via facsimile to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the Information Collection Request Title and the document identifier HHS–OS–19158–30D for reference.

Information Collection Request Title: Doing It For Ourselves (DIFO) Program.

Abstract: The Office of Women's Health (OWH) and the Department of Health and Human Services (HHS) Coordinating Committee on Lesbian, Gay, Bi-sexual and Transgender (LGBT) Issues have prioritized the collection of health data on LGBT populations. In response, OWH funded an initiative to identify and test effective and innovative ways of reducing obesity in lesbian and bisexual women. The DIFO intervention has been developed in San Francisco to address what is known about local LB women's community norms, common barriers to health, patterns of physical and mental health access, and preferences for health services and health outcomes. The evaluation of the DIFO program will address the following research question: Does an intervention based on an ecological model of LB women's health result in improved health, as defined by: quality of life, decreased weight, improved nutrition, and increased physical activity? The project is scheduled for one year.

Need and Proposed Use of the Information: Addresses barriers to health for the LB community, and promotes overall health and wellbeing. The intervention will incorporate community-identified weight loss/risk reduction needs of this population. Following the completion of the surveys and interventions, collected data will be used to develop increased health-related services and activities for LB women, web-based tools and materials for LB women, increased community recreation resources inclusive of sexual minority women.

Likely Respondents: Lesbian and bi-sexual women forty years of age and older.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions, to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information, to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information, and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Forms	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Screening Tool	180	1	5/60	15
Baseline Survey	168	1	30/60	84
Follow-Up Survey	224	1	30/60	112
End-of-Program Focus Group	112	1	1	112
Total				323

Keith A. Tucker,

Information Collection Clearance Officer.

[FR Doc. 2013–17214 Filed 7–17–13; 8:45 am]

BILLING CODE 4150–33–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: HHS–OS–19116–30D]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, has submitted an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB) for review and approval. The ICR is for a new collection. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public on this ICR during the review and approval period.

DATES: Comments on the ICR must be received on or before August 19, 2013.

ADDRESSES: Submit your comments to *OIRA_submission@omb.eop.gov* or via facsimile to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the Information Collection Request Title and the document identifier HHS–OS–19116–30D for reference.

Information Collection Request Title: Out, Proud, and Healthy Fitness Project.

Abstract: The Office of Women's Health (OWH) and the Department of Health and Human Services (HHS) Coordinating Committee on Lesbian, Gay, Bi-sexual and Transgender (LGBT) Issues have prioritized the collection of health data on LGBT populations. In response, OWH funded an initiative to identify and test effective and innovative ways of reducing obesity in lesbian and bisexual women. The planned intervention developed in St Louis Missouri is called the ''Out, Proud, and Health Fitness Project'' has been developed to address what is currently known about local LB women's community norms, common barriers to health, patterns of physical and mental health access, and preferences for health services and health outcomes. The interventions will offer randomized controlled trial intervention—fitness education classes, evidence-based personalized exercise routines, a gym membership, a smart pedometer to motivate users to increase physical activity and health education classes focused on increasing healthy lifestyle choices. The project is scheduled for one year.

Need and Proposed Use of the Information: Addresses barriers to health for the LB community, and promotes overall health and wellbeing. The intervention will incorporate community-identified weight loss/risk reduction needs of this population. Following the completion of the surveys and interventions, collected data will be used to develop a ''Toolkit'' that other organizations can use to promote healthy weight in older LB women.

Likely Respondents: Lesbian and bi-sexual women forty years of age and older.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions, to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information, to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information, and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Enrollment Survey	160	1	37/60	99
Baseline Survey	150	1	60/60	150
4-month Follow-up Assessment Survey	140	1	46/60	107
Post Intervention Focus Group	20	1	90/60	30
12-month Follow-up Assessment Survey	120	1	42/60	84
Total				470

Keith A. Tucker,
Information Collection Clearance Officer.

[FR Doc. 2013–17217 Filed 7–17–13; 8:45 am]

BILLING CODE 4150–33–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: HHS–OS–19144–30D]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, has submitted an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB) for review and approval. The ICR is for a new collection. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public on this ICR during the review and approval period.

DATES: Comments on the ICR must be received on or before August 19, 2013.

ADDRESSES: Submit your comments to *OIRA_submission@omb.eop.gov* or via facsimile to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the Information Collection Request Title and the document identifier HHS–OS–19144–30D for reference.

Information Collection Request Title: WHAM: Women's Health and Mindfulness Program.

Abstract: The Women's Health and Mindfulness (WHAM) program, developed in San Francisco, aims to test interventions that promote healthy weight in lesbian and bisexual (LB) women age 40 years and older. The project to test the interventions is scheduled for one year.

Need and Proposed Use of the Information: The Office of Women's Health (OWH) and the Department of Health and Human Services (HHS) Coordinating Committee on Lesbian, Gay, Bi-sexual and Transgender (LGBT) Issues has prioritized the collection of health data on LGBT populations. In response, OWH funded an initiative to identify and test effective and innovative ways of reducing obesity in lesbian and bisexual women. The information collected in this ICR tests two approaches to reducing obesity in the LB population. The first is a community-level health system intervention that responds to Goal 4, Strategy 4–1 of the 2012 Institute of Medicine (IOM) report ''Accelerating Progress in Obesity Prevention: Solving the Weight of the Nation;'' and the second is an innovative group support program that combines mindfulness-based stress reduction, nutrition, and physical activity that will be evaluated for its feasibility and evidence of effect on short-term outcomes.

Likely Respondents: Lesbian and bi-sexual women age 40 years and older.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions, to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information, to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information, and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Health Center Systems Intervention Evaluation				
Knowledge and Attitudes Assessment (Pre-training)	40	1	5/60	7
Knowledge and Attitudes Assessment (Post-training)	40	1	5/60	7
Group Intervention				
Assessments for All Participants: Sequence 1 (Immediate Intervention Start) and Sequence 2 Comparison Group (Delayed Intervention Start at Month 5)				
Group Intervention Screening Questionnaire	120	1	10/60	20
Evaluation Questionnaire:				
-Baseline-	80	1	45/60	60
Interim Behavioral Assessment-Month 1-	80	1	10/60	13
Accelerometer: Activity Diary and Reminder	40	3	20/60	13
Evaluation Questionnaire: Follow-up-Month 4-	80	1	30/60	40
Assessments for Sequence 2 Comparison Group Participants Only (Delayed Intervention Start at Month 5)				
Interim Behavioral Assessment-Month 5-	40	1	10/60	7
Evaluation Questionnaire: Follow-up-Month 8-	40	1	30/60	20
Total				214

Keith A. Tucker,

Information Collection Clearance Officer.

[FR Doc. 2013–17215 Filed 7–17–13; 8:45 am]

BILLING CODE 4150–33–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: HHS–OS–19133–30D]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, has submitted an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB) for review and approval. The ICR is for a new collection. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public on this ICR during the review and approval period.

DATES: Comments on the ICR must be received on or before August 19, 2013.

ADDRESSES: Submit your comments to *OIRA_submission@omb.eop.gov* or via facsimile to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the Information Collection Request Title and the document identifier HHS–OS–19133–30D for reference.

Information Collection Request Title: MOVE: Making Our Vitality Evident.

Abstract: The Office of Women's Health (OWH) and the Department of Health and Human Services (HHS) Coordinating Committee on Lesbian, Gay, Bi-sexual and Transgender (LGBT) Issues have prioritized the collection of health data on LGBT populations. In response, OWH funded an initiative to identify and test effective and innovative ways of reducing obesity in lesbian and bisexual women. The Healthy Weight in Lesbian and Bisexual Women Program was established in Washington, DC. The purpose of the program is to evaluate interventions that promote healthy weight in LB women through a 16-week group support program, including physical activity and nutrition, tailored to sexual minority women. Both doctors and nurses will be recruited and trained to assist with evaluation the outcomes of the program.

Need and Proposed Use of the Information: Addresses barriers to health for the LB community, and promotes overall health and wellbeing. The intervention will incorporate community-identified weight loss/risk reduction needs of this population. Following the completion of the surveys and interventions, collected data will be used to develop, deliver and evaluate a curriculum for medical professionals, which will emphasize working with LB women's particular needs and expectations. And emphasize skills in motivational interviewing for helping patients to undertake new and difficult lifestyle adjustments.

Likely Respondents: Lesbian and bi-sexual women forty years of age and older.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions, to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information, to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information, and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Pre-Test Women's Survey	40	1	23/60	15
Post-Test Women's Survey	40	1	23/60	15
Pre-Test Physician's/Nurses Survey	150	1	5/60	13
Post-Test Physician's/Nurses Survey	150	1	5/60	13
Total				56

Keith A. Tucker,

Information Collection Clearance Officer.

[FR Doc. 2013–17216 Filed 7–17–13; 8:45 am]

BILLING CODE 4150–33–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: HHS–EGOV–16500–30D]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Public Comment Request

AGENCY: Electronic Government Office, HHS.

ACTION: Notice.

SUMMARY: In compliance with section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Electronic Government Office (EGOV), Department of Health and Human Services, has submitted an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB) for review and approval. The ICR is for reinstatement of a previously-approved information collection assigned OMB control number 4040–0004, which expired on March 31, 2013. The ICR also requests categorizing the

form as a common form, meaning HHS will only request approval for its own use of the form rather than aggregating the burden estimate across all Federal Agencies as was done for previous actions on this OMB control number. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public on this ICR during the review and approval period.

DATES: Comments on the ICR must be received on or before August 19, 2013.

ADDRESSES: Submit your comments to *OIRA_submission@omb.eop.gov* or via facsimile to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the OMB control number 4040–0004 and document identifier HHS–EGOV–16500–30D for reference.

Information Collection Request Title: SF–424 Discretionary.

OMB No.: 4040–0004.

Abstract: The SF–424 Application for Federal Assistance is a common form used by all Federal grant-making agencies for applicants to apply for Federal financial assistance. Need and Proposed Use of the Information: The SF–424 Application for Federal Assistance is used by the public to apply for Federal financial assistance in the form of grants. These forms are submitted to the Federal grant-making agencies for evaluation and review.

Likely Respondents: Organizations and institutions seeking grants.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions, to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information, to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information, and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

HHS estimates that the SF–424 Application for Federal Assistance will take 1 hour to complete. We expect that 14,747 respondents will use this form.

Once OMB approves the use of this common form, federal agencies may request OMB approval to use this common form without having to publish notices and request public comments for 60 and 30 days. Each agency must account for the burden associated with their use of the common form.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
SF–424 Application for Federal Assistance	14,747	1	1	14,747
Total	14,747			14,747

Keith A. Tucker,

Information Collection Clearance Officer.

[FR Doc. 2013–17221 Filed 7–17–13; 8:45 am]

BILLING CODE 4151–AE–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Scientific Information Request on Vitamin D and Calcium

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Request for scientific information submissions.

SUMMARY: The Agency for Healthcare Research and Quality (AHRQ) is seeking scientific information submissions from the public on Vitamin D and Calcium. Scientific information is being solicited to inform the *Vitamin D and Calcium: A Systematic Review of Health Outcomes* project, which is currently being conducted by the Evidence-based Practice Centers for the AHRQ Effective Health Care Program. Access to published and unpublished pertinent scientific information on vitamin D and calcium will improve the quality of this systematic review. AHRQ is conducting this systematic review pursuant to Section 1013 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Public Law 108–173, and Section 902(a) of the Public Health Service Act, 42 U.S.C. 299a(a).

AHRQ is republishing this document due to errors found on our first publication of July 3, 2013 (*http://www.gpo.gov/fdsys/pkg/FR-2013-07-03/pdf/2013-5730.pdf*). Please disregard the July 3 publication.

DATES: *Submission Deadline by August 2, 2013.*

ADDRESSES: *Online submissions: http://effectivehealthcare.AHRQ.gov/index.cfm/submit-scientific-information-packets/.* Please select the study for which you are submitting information from the list to upload your documents.

Email submissions: SIPS@epc-src.org.

Print submissions:

Mailing Address: Portland VA Research Foundation, Scientific Resource Center, ATTN: Scientific Information Packet Coordinator, P.O. Box 69539, Portland, OR 97239.

Shipping Address (FedEx, UPS, etc.): Portland VA Research Foundation, Scientific Resource Center, ATTN: Scientific Information Packet Coordinator, 3710 SW U.S. Veterans Hospital Road, Mail Code: R&D 71, Portland, OR 97239.

FOR FURTHER INFORMATION CONTACT: Robin Paynter, Research Librarian, Telephone: 503–220–8262 ext. 58652 or Email: *SIPS@epc-src.org.*

SUPPLEMENTARY INFORMATION: The Agency for Healthcare Research and Quality has commissioned the Effective Health Care (EHC) Program Evidence-based Practice Centers to complete a review of the evidence for *Vitamin D and Calcium: A Systematic Review of Health Outcomes.*

The EHC Program is dedicated to identifying as many studies as possible that are relevant to the questions for each of its reviews. In order to do so, we are supplementing the usual manual and electronic database searches of the literature by requesting information from the public (e.g., details of studies conducted). We are looking for studies

that report on *vitamin D and calcium,* including those that describe adverse events, as specified in the key questions detailed below. The entire research protocol, including the key questions, is also available online at: *http://effectivehealthcare.AHRQ.gov/search-for-guides-reviews-and-reports/?pageaction=displayproduct&productID=1529.*

This notice is to notify the public that the EHC program would find the following information on Vitamin D and Calcium helpful:

- A list of completed studies your company has sponsored for this indication. In the list, *indicate whether results are available on ClinicalTrials.gov along with the ClinicalTrials.gov trial number.*
- *For completed studies that do not have results on ClinicalTrials.gov,* a summary, including the following elements: study number, study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, primary and secondary outcomes, baseline characteristics, number of patients screened/eligible/enrolled/lost to follow-up/withdrawn/analyzed, effectiveness/efficacy, and safety results.
- *A list of ongoing studies your company has sponsored for this indication.* In the list, please provide the ClinicalTrials.gov trial number or, if the trial is not registered, the protocol for the study including a study number, the study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, and primary and secondary outcomes.
- A description of whether the above studies constitute *ALL Phase II and above clinical trials* sponsored by your company for this indication and an index outlining the relevant information in each submitted file.

Your contribution is very beneficial to the Program. The contents of all submissions will be made available to the public upon request. Materials submitted must be publicly available or can be made public. Materials that are considered confidential; marketing materials; pharmacoeconomic, pharmacokinetic or pharmacodynamic studies; study types not included in the review; or information on indications not included in the review cannot be used by the Effective Health Care Program. This is a voluntary request for information, and all costs for complying with this request must be borne by the submitter.

The draft of this review will be posted on AHRQ's EHC program Web site and available for public comment for a period of 4 weeks. If you would like to be notified when the draft is posted, please sign up for the email list at: *http://effectivehealthcare.AHRQ.gov/index.cfm/join-the-email-list1/.*

Key Question 1

What is the effect of vitamin D intake or combined vitamin D plus calcium intake (but not calcium intake alone) on clinical outcomes, including cardiovascular diseases, cancer, immune function, pregnancy or birth outcomes, mortality, fracture, renal outcomes, and soft tissue calcification (the current report excludes two outcomes included in the original 2009 report: growth and weight management).

Population(s)

- The primary population of interest is generally healthy people with no known disorders, with the following exceptions. Studies that include broad populations might include some individuals with diseases or who are at risk for diseases.
- Studies of individuals with previous cancer, previous fractures, or precancerous conditions will be included.
- With the exception of studies of older adults, studies in which more than 20 percent of the participants have been diagnosed with a disease will be excluded.
- For clinical outcomes of cardiovascular disease (CVD), only studies of adults will be included (≥18 years of age)

Interventions

- For observational studies (exposures):
  - Serum concentration of 25-hydroxyvitamin D [25(OH)D] or 1,25-dihydroxyvitamin D [1,25(OH)2D] and method used
  - Dietary intake of calcium from food and supplements
  - Calcium balance
- For interventional studies:
  - Vitamin D supplements with known doses
  - Calcium supplements if co-administered with vitamin D
  - Food-based interventions in which the doses of vitamin D and calcium were quantified and in which the doses differ between comparison groups

Comparators

- For observational studies:
  - Lower serum concentrations of vitamin D
- For interventional studies:
  - Placebo, non-fortified/supplemented food

Outcomes

- CVD clinical outcomes
- Cardiac events or symptoms
- Cerebrovascular events
- Peripheral vascular events or symptoms
- Cardiovascular death
- Study-specific combinations of cardiovascular events
- Total cancer
- Prostate cancer
- Colorectal cancer
- Breast cancer
- Pancreatic cancer
- Cancer-specific mortality
- Immune function clinical outcomes
- Infectious disease
- Autoimmune diseases
- Infectious disease-specific mortality
- Pregnancy-related outcomes
- Preterm birth or low birth weight
- Infant mortality
- Mortality, all cause
- Bone health, clinical outcomes
- Rickets
- Fracture
- Falls or muscle strength
- Adverse effects of intervention(s)
- All-cause mortality
- Cancer incidence and cancer-specific mortality
- Renal outcomes
- Soft tissue calcification
- (Other) adverse events from vitamin D or vitamin D plus calcium supplements

Timing

- Timing of interventions or exposures will not be pre-specified, with the exception that cross-sectional and retrospective case-control studies will not be included (nested case controls within prospective cohort studies will be included).
- For studies with multiple follow-up periods, the longest follow-up times will be preferentially considered.

Settings

- Settings will not be pre-specified

Key Question 2

What is the effect of vitamin D or combined vitamin D and calcium intake on surrogate or intermediate outcomes, such as hypertension, blood pressure, and bone mineral density?

Populations

- As described for KQ 1, with the exception that for blood pressure and other CVD intermediate outcomes, only studies of adults 18 years of age or older will be included.

Interventions

- As described for KQ 1, with the following exceptions:
  - For CVD outcomes, only randomized controlled trials (RCTs)

will be included
- For bone health outcomes, only RCTs of greater than 1 year in duration will be included

Comparators

- As described for KQ 1.

Outcomes

- As specified in the original 2009 report, unless otherwise noted:
  - CVD intermediate outcomes
  - Cancer intermediate outcomes (colorectal adenoma, aberrant crypt cells, and mammographic breast density)
  - Bone health intermediate outcomes (only bone mineral density/content)
  - Pregnancy-related intermediate outcomes
  - Pre-eclampsia
  - High blood pressure with or without proteinuria

Timing

- As described for KQ 1, except for intermediate bone health for which studies of less than 1 year in duration will be excluded.

Settings

- As described for KQ 1.

Key Question 3

What is the association between serum 25(OH)D concentrations and clinical outcomes?*

Populations

- As described for KQ 1.

Interventions

- Serum concentration of 25(OH)D or 1,25 (OH)2D and the method used.

Comparators

- The serum concentration of 25(OH)D or 1,25 (OH)2D and the method used for the placebo or other comparison group.

Outcomes

- As described for KQ 1.

Timing

- As described for KQ 1.

Settings

- As described for KQ 1.

Key Question 4

What is the effect of vitamin D or combined vitamin D and calcium intake on serum 25(OH)D concentrations?

Populations

- As described for KQ 1.

Interventions

- Randomized controlled trials (RCTs) identified to answer all other KQs.

Comparators

- Placebo or lower dose supplement.

Outcomes

- Dose-response relationship between intake levels and indices of exposure.

Timing

- As described for KQs 1 and 2.

Settings

- As described for KQs 1 and 2.

Key Question 5

What is the association between serum 25(OH)D concentration and surrogate or intermediate outcomes?

Populations

- As described for KQ 2.

Interventions

- As described for KQ 2.

Comparators

- As described for KQ 2.

Outcomes

- As described for KQ 2.

Timing

- As described for KQ 2.

Settings

- As described for KQ 2.

Dated: July 11, 2013.

Carolyn M. Clancy,

AHRQ Director.

[FR Doc. 2013–17177 Filed 7–17–13; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Scientific Information Request on Imaging Tests for the Staging of Colorectal Cancer

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Request for scientific information submissions.

SUMMARY: The Agency for Healthcare Research and Quality (AHRQ) is seeking scientific information submissions on imaging tests for the staging of colorectal cancer (e.g., Chest x-ray, computed tomography, multidetector computed tomography (MD–CT), CT colonography, magnetic resonance imaging (MRI), transabdominal ultrasound (TUS), endoscopic ultrasound (EUS), transrectal ultrasound (TRUS), positron emission tomography (PET), positron emission tomography combined with computed tomography (PET/CT fusion), or positron emission tomography combined with magnetic resonance imaging (PET/MRI fusion)) from medical device manufacturers. Scientific information is being solicited to inform our Comparative Effectiveness Review of Imaging Tests for the Staging of Colorectal Cancer, which is currently being conducted by one of the Evidence-based Practice Centers for the AHRQ Effective Health Care Program. Access to published and unpublished pertinent scientific information on these devices will improve the quality of this comparative effectiveness review. AHRQ is requesting this scientific information and conducting this comparative effectiveness review pursuant to Section 1013 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Public Law 108–173, and Section 902(a) of the Public Health Service Act, 42 U.S.C. 299a(a).

AHRQ is republishing this document due to errors found on our first publication of June 27, 2013 (*http://www.gpo.gov/fdsys/pkg/FR-2013-06-27/pdf/2013-15288.pdf*). Please disregard the June 27 publication.

DATES: *Submission Deadline by July 29, 2013.*

ADDRESSES: *Online submissions: http://effectivehealthcare.AHRQ.gov/index.cfm/submit-scientific-information-packets/.* Please select the study for which you are submitting information from the list to upload your documents.

Email submissions: SIPS@epc-src.org.

Print submissions: Mailing Address: Portland VA Research Foundation, Scientific Resource Center, ATTN: Scientific Information Packet Coordinator, P.O. Box 69539, Portland, OR 97239.

Shipping Address (FedEx, UPS, etc.): Portland VA Research Foundation, Scientific Resource Center, ATTN: Scientific Information Packet Coordinator, 3710 SW U.S. Veterans Hospital Road, Mail Code: R&D 71, Portland, OR 97239.

FOR FURTHER INFORMATION CONTACT: Robin Paynter, Research Librarian, Telephone: 503–220–8262 ext. 58652 or Email: *SIPS@epc-src.org.*

SUPPLEMENTARY INFORMATION: The Agency for Healthcare Research and Quality has commissioned one of the Effective Health Care (EHC) Program Evidence-based Practice Centers to complete a comparative effectiveness

review of the evidence for *Imaging Tests for the Staging of Colorectal Cancer.*

The EHC Program is dedicated to identifying as many studies as possible that are relevant to the questions for each of its reviews. In order to do so, we are supplementing the usual manual and electronic database searches of the literature by systematically requesting information (e.g., details of studies conducted) from medical device industry stakeholders through public information requests, including via the **Federal Register** and direct postal and/or online solicitations. We are looking for studies that report on *Imaging Tests for the Staging of Colorectal Cancer,* including those that describe adverse events, as specified in the key questions detailed below. The entire research protocol, including the key questions, is also available online at: *http://www.effectivehealthcare.AHRQ.gov/search-for-guides-reviews-and-reports/?pageaction=displayproduct&productID=1510.*

This notice is a request for information about the following:

- A list of all completed studies your company has sponsored for this indication, and if *the results are available on ClinicalTrials.gov along with the CT.gov trial number.*
- For *completed studies that do not have results on CT.gov,* a summary that includes the following elements: Study number, study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, primary and secondary outcomes, baseline characteristics, number of patients screened/eligible/enrolled/lost to follow-up/withdrawn/analyzed, and effectiveness/efficacy and safety results.
- In addition, *ongoing studies your company has sponsored for this indication.* In the list, please provide the CT.gov trial number or, if the trial is not registered, the protocol for the study including a study number, the study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, and primary and secondary outcomes.

Your contribution is very beneficial to this program. The contents of all submissions will be available to the public upon request. Materials submitted must be publicly available or materials that can be made public. Materials that are considered confidential; marketing materials; pharmacoeconomic, pharmacokinetic or pharmacodynamic studies; study types not included in the review; or information on indications not included in the review cannot be used by the Effective Health Care Program. This is a voluntary request for information, and all costs for complying with this request must be borne by the submitter.

The draft of this review will be posted on AHRQ's EHC program Web site and available for public comment for a period of 4 weeks. If you would like to be notified when the draft is posted, please sign up for the email list at: *http://effectivehealthcare.AHRQ.gov/index.cfm/join-the-email-list1/.*

Key Question 1

What is the comparative effectiveness of imaging techniques for pretreatment staging of patients with primary and recurrent colorectal cancer?

a. What is the test performance of the imaging techniques used (singly, in combination, or in a specific sequence) to stage colorectal cancer when compared with a reference standard?

b. What is the impact of alternative imaging techniques on intermediate outcomes, including stage reclassification and changes in therapeutic management?

c. What is the impact of alternative imaging techniques on clinical outcomes?

d. What are the adverse effects or harms associated with using imaging techniques, including harms of test-directed management?

e. How is the comparative effectiveness of imaging techniques modified by the following factors:

i. Patient-level characteristics (e.g., age, sex, body mass index)

ii. Disease characteristics (e.g., tumor grade)

iii. Imaging technique or protocol characteristics (e.g., use of different tracers or contrast agents, radiation dose of the imaging modality, slice thickness, timing of contrast)

Key Question 2

What is the comparative effectiveness of imaging techniques for restaging patients with primary and recurrent colorectal cancer after initial treatment?

a. What is the test performance of the imaging techniques used (singly, in combination, or in a specific sequence) to restage colorectal cancer when compared with a reference standard?

b. What is the impact of alternative imaging techniques on intermediate outcomes, including stage reclassification and changes in therapeutic management?

c. What is the impact of alternative imaging techniques on clinical outcomes?

d. What are the adverse effects or harms associated with using imaging techniques, including harms of test-directed management?

e. How is the comparative effectiveness of imaging techniques modified by the following factors:

i. Patient-level characteristics (e.g., age, sex, body mass index)

ii. Disease characteristics (e.g., tumor grade)

iii. Imaging technique or protocol characteristics (e.g., use of different tracers or contrast agents, radiation dose of the imaging modality, slice thickness, timing of contrast)

PICOTS Criteria (Population, Intervention, Comparator, Outcomes, Timing, Setting)

Populations

- Adult patients with an established diagnosis of primary colorectal cancer
- Adult patients with an established diagnosis of recurrent colorectal cancer

Interventions

Noninvasive imaging using the following tests (alone or in combination) to assess the stage of colorectal cancer:

- CT
- PET/CT
- MRI
- Endoscopic ultrasound

Combinations of particular interest include endoscopic ultrasound to evaluate the T stage combined with PET/CT or CT to evaluate the N and M stages.

Reference Standards To Assess Test Performance

- Histopathological examination of tissue
- Intraoperative findings
- Clinical followup

Histopathology of surgically resected specimens is the reference standard for pretherapy staging. In patients undergoing surgery, the nodal (N) stage and spread of the tumor to nearby regional structures and other organs is assessed intraoperatively, either by palpation or ultrasound. However, in patients with metastatic disease who undergo palliative care, a combination of initial biopsy results and clinical followup serves as the reference standard.

Clinicians use the results from the imaging modality or modalities to arrive at a stage determination that is compared against the stage established by the reference standard. These comparisons tell us how many people were correctly classified in the various stages of the disease and allow us to calculate the test performance metrics of sensitivity, specificity, and accuracy. The selection of the reference standard is important in evaluating the true performance of an imaging modality for staging.

Comparators

- Any direct comparisons of the imaging tests of interest
- Any direct comparisons of variations of any of the imaging tests of interest (e.g., diffusion-weighted MRI vs. T2-weighted MRI)

Comparators thought to be of particular clinical interest are listed below:

- For colon cancer: A contrast-enhanced CT of the chest, abdomen, and pelvis versus whole-body PET/CT versus a contrast-enhanced MRI of the chest, abdomen, and pelvis
- For rectal cancer: A contrast-enhanced CT of the abdomen and pelvis versus an MRI of the abdomen and pelvis
- For rectal cancer: Endoscopic ultrasound versus MRI
- For suspected liver metastasis: CT scan versus MRI or PET/CT of the abdomen
- For suspected widespread metastasis, CT of the chest, abdomen, and pelvis versus whole-body PET/CT or contrast-enhanced MRI of the chest, abdomen, and pelvis

We note that this list is based on a preliminary literature search and discussions with a limited number of clinicians and the Technical Expert Panel (TEP). Thus, we do not anticipate that the listed items cover all of the comparisons of interest. We expect that additional comparisons will be identified during the literature review.

Outcomes

- Test performance outcomes.
  - Test performance (e.g., sensitivity, specificity, understaging, and overstaging) against a reference standard test (pathological examination, intraoperative findings, clinical followup).
- Intermediate outcomes.
  - Stage reclassification.
  - Changes in therapeutic management.
- Clinical outcomes.
  - Overall mortality.
  - Colorectal cancer–specific mortality.
  - Quality of life and anxiety.
  - Need for additional staging tests, including invasive procedures.
  - Need for additional treatment, including surgery, radiotherapy, or chemotherapy.
  - Resource utilization related to testing and treatment (when reported in the included studies).
  - Adverse effects and harms.
  - Harms of testing per se (e.g., radiation exposure).
  - Harms from test-directed treatments (e.g., overtreatment, undertreatment).

Timing

- Primary staging.
- Interim restaging.
- Duration of followup will vary by outcome (e.g., from no followup for test performance measurements to many years for mortality).

Setting

- Any setting will be considered.

Dated: July 11, 2013.

Carolyn M. Clancy,

AHRQ Director.

[FR Doc. 2013–17176 Filed 7–17–13; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–13–0307]

Proposed Data Collections Submitted for Public Comment and Recommendations

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call (404) 639–7570 or send an email to *omb@cdc.gov*. Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

The Gonococcal Isolate Surveillance Project (GISP), OMB No. 0920–0307 exp. 12/31/2013)—Revision—National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The purpose of this request is to obtain Office of Budget and Management (OMB) approval to revise the data collection for the Gonococcal Isolate Surveillance Project (GISP) (OMB No. 0920–0307, expires 12/31/2013). CDC seeks a three-year approval to conduct the GISP project. Revisions to this ICR consist of removing 4 variables from Form 1: Demographic/Clinical Data. The four variables to be removed are: (1) Total monthly number of gonococcal infections; (2) date of birth of the patient; (3) zip code of the patient; and (4) reason for visit. The variables to be removed have not proven useful at the federal level and removal of the variables will not increase or decrease the burden. The objectives of GISP are: (1) To monitor trends in antimicrobial susceptibility of strains of *Neisseria gonorrhoeae* in the United States and (2) to characterize resistant isolates. Surveillance of *N. gonorrhoeae* antimicrobial resistance is important because: (1) Nearly all gonococcal infections are treated empirically and susceptibility testing data are not routinely available in clinical practice; (2) *N. gonorrhoeae* has consistently demonstrated the ability to develop resistance to the antimicrobials used for treatment; (3) effective treatment of gonorrhea is a critical component of gonorrhea control and prevention, and (4) untreated or inadequately treated gonorrhea can cause serious reproductive health complications. GISP is the only source in the United States of critical national, regional, and site-specific gonococcal antimicrobial resistance data. GISP provides information to support informed and scientifically-based treatment recommendations.

GISP was established in 1986 as a voluntary surveillance project and now involves 5 regional laboratories and 30 publicly funded sexually transmitted disease (STD) clinics around the country. The STD clinics submit up to 25 gonococcal specimens (or isolates) per month to the regional laboratories, which measure susceptibility of the isolates to multiple antimicrobial drugs. Limited demographic and clinical information corresponding to the isolates (and that do not allow identification of the patient) are submitted directly by the clinics to CDC.

During 1986–2012, GISP has demonstrated the ability to effectively achieve its objectives. The emergence of resistance in the United States to penicillin, tetracyclines, and fluoroquinolones among *N. gonorrhoeae* isolates was identified through GISP. Increased prevalence of fluoroquinolone-resistant *N. gonorrhoeae* (QRNG), as documented by GISP data, prompted CDC to update treatment recommendations for gonorrhea in CDC's Sexually Transmitted Diseases Treatment Guidelines, 2006 and to release an MMWR article stating that CDC no longer recommended fluoroquinolones for treatment of gonococcal infections. Recently, GISP isolates demonstrated increasing minimum inhibitory concentrations of cefixime, which can be an early warning of impending

resistance. This worrisome trend prompted CDC to again update treatment recommendations and no longer recommend the use of cefixime as first-line treatment for gonococcal infections.

Under the GISP protocol, each of the 30 clinics submit an average of 20 isolates per clinic per month (i.e., 240 times per year) recorded on Form 1: Demographic/Clinical Data. The estimated time for clinical personnel to abstract data for Form 1: Demographic/Clinical Data is 11 minutes per response.

Each of the five Regional laboratories receives and processes approximately 20 isolates from each referring clinic per month (i.e., 121 isolates per regional laboratory per month [based on 2011 specimen volume]) using Form 2: Antimicrobial Susceptibility Testing. For Form 2: Antimicrobial Susceptibility Testing, the annual frequency of responses per respondent is 1,452 (121 isolates × 12 months). Based on previous laboratory experience, the estimated burden of completing Form 2 for each participating laboratory is 1 hour per response, which includes the time required for laboratory processing of the patient's isolate, gathering and maintaining the data needed, and completing and reviewing the collection of information. For Form 3: Control Strain Susceptibility Testing, a ''response'' is defined as the processing and recording of Regional laboratory data for a set of seven control strains. It takes approximately 12 minutes to process and record the Regional laboratory data on Form 3 for one set of seven control strains, of which there are 4 sets. The number of responses per respondent is 48 (4 sets × 12 months). There are no additional costs to respondents. The total estimated annual burden hours are 8,628.

ESTIMATE OF ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Clinic	Demographic Clinical Data Form 1	30	240	11/60
Laboratory	Antimicrobial Susceptibility Testing Form 2	5	1,452	1
	Control Strain Susceptibility Testing Form 3	5	48	12/60

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2013–17263 Filed 7–17–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier CMS–10062, CMS–10146, CMS–10191, CMS–10308, CMS–R–43 and CMS–10453]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by August 19, 2013:

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–6974, or Email: *OIRA_submission@omb.eop.gov* .

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995*.

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Reinstatement with change of a previously approved collection; *Title of Information Collection:* Collection of Diagnostic Data from Medicare Advantage Organizations for Risk

Adjusted Payments; *Use:* In the Balanced Budget Act of 1997 (BBA), Congress created the Medicare+Choice (M+C or Part C) program in order to expand the types of private entities eligible to contract with Medicare and to address some perceived flaws in the risk-contracting program. Congress subsequently refined the M+C program through the Balanced Budget Refinement Act of 1999 (BBRA) and the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA). Most recently, under the Medicare Prescription Drug Benefit, Improvement and Modernization Act of 2003 (MMA), Congress restructured the M+C program into the Medicare Advantage (MA) program and added an outpatient prescription drug benefit, Part D.

The BBA of 1997 and later legislation required CMS to adjust per-beneficiary capitation payments with a risk adjustment methodology using diagnoses to measure relative risk due to health status instead of just demographic characteristics such as age, sex, and Medicaid eligibility. Risk adjustment using diagnoses provides more accurate payments for MA organizations, with higher payments for enrollees at risk for being sicker, and lower payments for enrollees predicted to be healthier.

The MMA also instituted a bidding system in Parts C and D with a significant role for risk adjustment. Thus, independent of enrollment and payment, risk adjustment now plays a significant role simply because it is central to the bidding process. Under the MMA, risk adjustment is used to standardize bids. Plans bid on the average beneficiary, referred to as a ''standardized'' bid for a beneficiary with a 1.0 risk score. This enables comparison of Part C and D bids against a baseline (average) standard, even though every plan will have different enrollee characteristics and benefit packages and will therefore have different costs.

Previously, we received PRA clearance to collect inpatient and outpatient data for Part C using the CMS–HCC model. Currently, we are seeking to renew that OMB approval and also clearance for changes in data collection in order to fulfill new mandates under the MMA. *Form Number:* CMS–10062 (OCN: 0938–0838); *Frequency:* Quarterly; *Affected Public:* Private Sector (business or other for-profit and not-for-profit institutions); *Number of Respondents:* 766; *Total Annual Responses:* 830,000; *Total Annual Hours:* 40,650; (For policy questions regarding this collection contact Michael Massimini at 410–786–1566.)

2. *Type of Information Collection Request:* Revision of a currently approved collection;

Title of Information Collection: Notice of Denial of Medicare Prescription Drug Coverage; *Use:* Section 1860D–4(g)(1) of the Social Security Act, requires that Part D plan sponsors who deny prescription drug coverage must provide a written notice of the denial to the enrollee. The written notice must include a statement, in understandable language, of the reasons for the denial and a description of the appeals process. The Part D denial notice has been revised for clarity and includes new optional language for Part D plan sponsors to use when explaining their denial rationale. Specifically, we added optional language in the denial rationale section of the notice to allow plans to populate text explaining that a drug denied under Part D may be (or is) covered under a different benefit, such as Part B. The instructions have also been changed to guide plans on when to use this optional text. We solicit feedback on this new addition as well as other situations where another benefit may cover a drug (i.e. employer group benefits) and what changes to the denial notice may be helpful in addressing those situations. We also seek comment regarding the potential viability and usefulness of developing a combined notice for Part C and Part D, which would allow MA–PD plans that deny a drug under Part D to simultaneously issue an approval letter under Part B. *Form Number:* CMS–10146 (OCN: 0938–0976); *Frequency:* Occasionally; *Affected Public:* Private sector (business or other for-profits); *Number of Respondents:* 596; *Total Annual Responses:* 1,497,929; *Total Annual Hours:* 374,482; (For policy questions regarding this collection contact Caroline Baker at 410–786–0116.)

3. *Type of Information Collection Request:* Reinstatement with change of a previously approved collection; *Title of Information Collection:* Medicare Parts C and D Universal Audit Guide; *Use:* Under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 and implementing regulations under 42 CFR parts 422 and 423, Medicare Part D plan sponsors and Medicare Advantage organizations are required to comply with all Medicare Parts C and D program requirements. In 2010 the explosive growth of these sponsoring organizations forced us to develop an audit strategy to ensure we continue to obtain meaningful audit results. As a result, our audit strategy reflected a move to a more targeted, data-driven and risk-based audit approach that focused on high-risk areas having the greatest potential for beneficiary harm.

To accomplish this we have combined all Part C and Part D audit elements into one universal guide which will also promote consistency, effectiveness and reduce financial and time burdens for both CMS and Medicare-contracting entities. The combined Medicare Part C & D Universal Audit Guide received OMB approval in 2010. The Health Plan Management System (HPMS) is the current conduit by which organizations submit many sources of audit materials such as bids and other ongoing updates to us. Please note the guide is very comprehensive in that it describes all areas that could be audited. Due to limited resources, we are unable to audit all areas for any particular sponsor. Some areas could be monitored by the account manager, etc. Other areas could be the audited in the program audits.

To maximize resources, we will focus on assisting the industry to improve their operations to ensure beneficiaries receive access to care. We will accomplish this by developing an annual audit strategy which describes how sponsors will be selected for audit and the areas that will be audited. The audit strategy will be shared with the industry via the CMS Web site, HPMS memo, the Part C & D user call, and other conferences. Once the audit areas are defined, we will design audit protocols describing in detail the focus of the audit, the data required for the audit, etc. The Engagement Letter and Protocols will be sent to all sponsors selected for audit 4 weeks prior to starting the audit. In addition, the protocols will be released to the industry at the beginning of each calendar year via the same manner as the audit strategy. To assist in improving the audit process, we send the plan sponsors a survey at the end of each audit to complete in order to obtain the sponsors feedback. The sponsor is not required to complete the survey. The supporting materials for this information collection request have been revised since the 60-day **Federal Register** notice published on February 28, 2013 (78 FR 4412). *Form Number:* CMS–10191 (OCN: 0938–1000); *Frequency:* Yearly; *Affected Public:* Private Sector (business or other for-profit and not-for-profit institutions); *Number of Respondents:* 195; *Total Annual Responses:* 195; *Total Annual Hours:* 24,180. (For policy questions regarding this collection contact Tracey Roberts at 410–786–8643.)

4. *Type of Information Collection Request:* Revision of a currently approved collection. *Title of Information Collection:* Parts C and D Complaints Resolution Performance Measures. *Use:* We seek to conduct a survey as part of the Part C and D Complaints Resolution Performance Measure project. The purpose of the project is to develop and support implementation of internal monitoring tools for the Medicare Advantage (Part C) and Prescription Drug (Part D) program that represents, from the beneficiary's perspective, the way in which plans handle complaints. The data collection is necessary because a survey is the only way to collect information about the resolution process from the beneficiary's perspective. Currently, there is no other data source that collects such information for Part C and Part D Medicare plans. *Form Number:* CMS–10308 (OCN: 0938–1107); *Frequency:* Yearly; *Affected Public:* Individuals or households; *Number of Respondents:* 18,210; *Total Annual Responses:* 18,210; *Total Annual Hours:* 3,035. (For policy questions regarding this collection contact Carolyn Scott at 410–786–1190.)

5. *Type of Information Collection Request:* Reinstatement with change of a currently approved collection; *Title of Information Collection:* Conditions of Coverage for Portable X-ray Suppliers and Supporting Regulations; *Use:* The requirements contained in this information collection request are classified as conditions of participation or conditions for coverage. These conditions are based on a provision specified in law relating to diagnostic X-ray tests ''furnished in a place of residence used as the patient's home,'' and are designed to ensure that each supplier has a properly trained staff to provide the appropriate type and level of care, as well as, a safe physical environment for patients. We use these conditions to certify suppliers of portable X-ray services wishing to participate in the Medicare program. This is standard medical practice and is necessary in order to help to ensure the well-being, safety and quality professional medical treatment accountability for each patient. *Form Number:* CMS–R–43 (OCN: 0938–0338); *Frequency:* Yearly; *Affected Public:* Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 578; *Total Annual Responses:* 578; *Total Annual Hours:* 948. (For policy questions regarding this collections contact Alesia Hovatter at 410–786–6861.)

6. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title of Information Collection:* The Medicare Advantage and Prescription Drug Program: Part C Explanation of Benefits CFR 422.111(b)(12); *Use:* We are requesting OMB approval for the information collection requirements referenced in the April 15, 2011 final rule revising the Medicare Advantage (MA) and Part D programs for calendar year 2012 (77 FR 21432–21577). The rule revised the MA disclosure requirements in 42 CFR 422.111(b) by adding the authority for CMS to require MA organizations to furnish a written explanation of benefits directly to enrollees, in a manner we specify and in a form easily understandable to enrollees, when benefits are provided under Part 422. The collection instrument that requires OMB approval concerns the disclosure requirements in paragraph 42 CFR 422.111(b)(12).

In order to provide all Medicare Advantage enrollees with consistent, clear, useful information about their medical claims, we established a requirement, in the April 2011 final rule, that MA organizations furnish directly to enrollees, in the manner specified by CMS and in a form easily understandable to such enrollees, a written explanation of benefits, when benefits are provided under Part 422. We finalized this policy based on the public comments and input we have received from beneficiaries, advocacy organizations, health plans and industry organizations. This EOB will help ensure that people in the Medicare Advantage program receive clear, timely information, as do people receiving the Medicare MSN and the Part D EOB, so that they may make confident, informed decisions about their healthcare options.

We stated that we would develop a model EOB for Part C benefits modeled after the EOB currently required for Part D enrollees at § 423.128(e). After publication of the final rule in April 2011, we engaged MA organizations, industry and advocacy groups and beneficiaries in listening sessions to gather ideas and feedback. We developed models based on that input, as well as the newly redesigned and consumer tested Medicare Summary Notice and the Part D EOB. We have tested models through a small pilot program with a volunteer MA organization in CY 2012. In designing our model EOB, we considered language and design from Medicare MSN, integration of Part C and Part D EOBs, level of detail, and frequency of EOB dissemination as part of this process.

We sought additional public comments on the model EOBs that we developed through a Health Plan Management System (HPMS) memo release with a 30 day comment period. Our goal was to implement a model Part C EOB document in mid-year 2013 based on this process, and to require all MA organizations to periodically send an EOB to enrollees for Part C benefits in future years. This customized information would supplement general plan information in the annual notice of change (ANOC) and evidence of coverage (EOC) documents as well as enhance the currently available information through tools such as Medicare Options Compare (MOC) and the Medicare Prescription Drug Plan Finder (MPDPF), which provide general information about plan costs. Based on public comments we received on the HPMS memo and November 26, 2012 **Federal Register** notice (77 FR 70445) and the revisions we made to the initial templates and guidance, we are extending the timeline for implementation to April, 2014. We intend for the Part C EOB to provide personal information to beneficiaries that would help them understand their current utilization, keep track of their out-of-pocket expenses, and to consider using other tools and resources, including MOC and MPDPF, to determine whether to select a new plan.

As a result of comments received during the 60-day comment period associated with the November 26, 2012, **Federal Register** notice (77 FR 70445), we revised the collection request. Specifically, we shortened the templates by removing two sections. One section was deemed to include information that was not needed and information from the second section was incorporated into other sections. We clarified and streamlined the presentation of the information and modified some of the language to be more beneficiary-friendly. *Form Number:* CMS–10453 (OCN: 0938-New); *Frequency:* On occasion; *Affected Public:* Private Sector—Business or other for-profits; *Number of Respondents:* 564; *Number of Responses:* 2,256; *Total Annual Hours:* 101,520. (For policy questions regarding this collection contact Chris McClintick at 410–786–4682.)

Dated: July 15, 2013.

Martique Jones,

Deputy Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2013–17317 Filed 7–17–13; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0242]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Current Good Manufacturing Practice for Positron Emission Tomography Drugs

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 August 19, 2013.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0667. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–7726, *Ila.Mizrachi@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.

Current Good Manufacturing Practice for Positron Emission Tomography Drugs—(OMB Control Number 0910–0667)—Extension

Positron emission tomography (PET) is a medical imaging modality involving the use of a unique type of radiopharmaceutical drug product. FDA's current good manufacturing practice (CGMP) regulations at 21 CFR part 212 are intended to ensure that PET drug products meet the requirements of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) regarding safety, identity, strength, quality, and purity. The CGMP requirements for PET drugs are issued under the provisions of the Food and Drug Administration Modernization Act (FDAMA). These CGMP requirements are designed to take into account the unique characteristics of PET drugs, including their short half-lives and the fact that most PET drugs are produced at locations that are very close to the patients to whom the drugs are administered.

The CGMP regulations are intended to ensure that approved PET drugs meet the requirements of the FD&C Act as to safety, identity, strength, quality, and purity. The regulations address the following matters: Personnel and resources; quality assurance; facilities and equipment; control of components, in-process materials, and finished products; production and process controls; laboratory controls; acceptance criteria; labeling and packaging controls; distribution controls; complaint handling; and recordkeeping.

The CGMP regulations establish several recordkeeping requirements and a third-party disclosure requirement for the production of PET drugs. In making our estimates of the time spent in complying with these information collection requirements, we relied on communications we have had with PET producers, visits by our staff to PET facilities, and our familiarity with both PET and general pharmaceutical manufacturing practices. The estimated annual recordkeeping and third-party disclosure burden is based on there being approximately 129 PET drug production facilities. Table 1 provides an estimate of the annual recordkeeping burdens. Table 2 provides an estimate of the annual third-party disclosure burdens associated with this collection.

A. Investigational and Research PET Drugs

Section 212.5(b) provides that for investigational PET drugs produced under an investigational new drug (IND) and research PET drugs produced with approval of a Radioactive Drug Research Committee (RDRC), the requirement under the FD&C Act to follow current good manufacturing practice is met by complying with the regulations in part 212 or with United States Pharmacopoeia (USP) 32 Chapter 823. We believe that PET production facilities producing drugs under INDs and RDRCs are currently substantially complying with the recordkeeping requirements of USP 32 Chapter 823 (see section 121(b) of FDAMA), and accordingly, we do not estimate any recordkeeping burden for this provision.

B. Batch Production and Control Records

Sections 212.20(c) through (e), 212.50(a) through (c), and 212.80(c) set forth requirements for batch and production records as well as written control records. We estimate that it would take approximately 20 hours annually for each PET production facility to prepare and maintain written production and control procedures and to create and maintain master batch records for each PET drug produced. We also estimate that there will be a total of approximately 221 PET drugs produced, with a total recordkeeping burden of approximately 4,420 hours. We estimate that it would take a PET production facility an average of 1 hour to complete a batch record for each of approximately 501 batches. Our estimated burden for completing batch records is approximately 64,629 hours.

C. Equipment and Facilities Records

Sections 212.20(c), 212.30(b), 212.50(d), and 212.60(f) contain requirements for records dealing with equipment and physical facilities. We estimate that it would take approximately 1 hour to establish and maintain these records for each piece of equipment in each PET production facility. We estimate that the total burden for establishing procedures for these records would be approximately 1,935 hours. We estimate that recording maintenance and cleaning information would take approximately 5 minutes a day for each piece of equipment, with a total recordkeeping burden of approximately 40,237 hours.

D. Records of Components, Containers, and Closures

Sections 212.20(c) and 212.40(a), (b), and (e) contain requirements on records regarding receiving and testing of components, containers, and closures. We estimate that the annual burden for establishing these records would be approximately 259 hours. We estimate that each facility would receive approximately 36 shipments annually and would spend approximately 30 minutes per shipment entering records. The annual burden for maintaining these records would be approximately 2,322 hours.

E. Process Verification

Section 212.50(f)(2) requires that any process verification activities and results be recorded. Because process verification is only required when results of the production of an entire batch are not fully verified through finished-product testing, we believe that process verification will be a very rare

occurrence, and we do not estimate any recordkeeping burden for documenting process verification.

F. Laboratory Testing Records

Sections 212.20(c), 212.60(a), (b), and (g), 212.61(a) and (b), and 212.70(a), (b), and (d) set out requirements for documenting laboratory testing and specifications referred to in laboratory testing, including final release testing and stability testing. Each PET drug production facility will need to establish procedures and create forms for the different tests for each product they produce. We estimate that it will take each facility an average of 1 hour to establish procedures and create forms for one test. The estimated annual burden for establishing procedures and creating forms for these records is approximately 3,225 hours, and the annual burden for recording laboratory test results is approximately 10,728 hours.

G. Sterility Test Failure Notices

Section 212.70(e) requires PET drug producers to notify all receiving facilities if a batch fails sterility tests. We believe that sterility test failures might occur in only 0.05 percent of the batches of PET drugs produced each year. Therefore, we have estimated in Table 2 that each PET drug producer will need to provide approximately 0.25 sterility test failure notice per year to receiving facilities. The notice would be provided using email or facsimile transmission and should take no more than 1 hour.

H. Conditional Final Releases

Section 212.70(f) requires PET drug producers to document any conditional final releases of a product. We believe that conditional final releases will be fairly uncommon, but for purposes of the Paperwork Reduction Act (PRA), we estimated that each PET production facility would have one conditional final release a year and would spend approximately 1 hour documenting the release and notifying receiving facilities. The estimate of one conditional final release per year per facility is an appropriate average number because many facilities may have no conditional final releases while others might have only a few.

I. Out-of-Specification Investigations

Sections 212.20(c) and 212.71(a) and (b) require PET drug producers to establish procedures for investigating products that do not conform to specifications and conduct these investigations as needed. We estimate that it will take approximately 1 hour annually to record and update these procedures for each PET production facility. We also estimate, for purposes of the PRA, that 36 out-of-specification investigations would be conducted at each facility each year and that it would take approximately 1 hour to document the investigation, which results in an annual burden of 4,644 hours.

J. Reprocessing Procedures

Sections 212.20(c) and 212.71(d) require PET drug producers to establish and document procedures for reprocessing PET drugs. We estimate that it will take approximately 1 hour a year to document these procedures for each PET production facility. We do not estimate a separate burden for recording the actual reprocessing, both because we believe it would be an uncommon event and because the recordkeeping burden has been included in our estimate for batch production and control records.

K. Distribution Records

Sections 212.20(c) and 212.90(a) require that written procedures regarding distribution of PET drug products be established and maintained. We estimate that it will take approximately 1 hour annually to establish and maintain records of these procedures for each PET production facility. Section 212.90(b) requires that distribution records be maintained. We estimate that it will take approximately 15 minutes to create an actual distribution record for each batch of PET drug products, with a total burden of approximately 16,157 hours for all PET producers.

L. Complaints

Sections 212.20(c) and 212.100 require that PET drug producers establish written procedures for dealing with complaints, as well as document how each complaint is handled. We estimate that establishing and maintaining written procedures for complaints will take approximately 1 hour annually for each PET production facility and that each facility will receive approximately one complaint a year and will spend approximately 30 minutes recording how the complaint was dealt with.

In the **Federal Register** of March 20, 2013 (78 FR 17215), FDA published a 60-day notice requesting public comment on the proposed collection of information. We received 2 comments, each raising several issues.

(Comment 1) One comment said that the two tables in the **Federal Register** notice were unclear because only the part 212 section was cited and not the records pertaining to that section.

(Response) FDA appreciates the comment and we have revised the tables accordingly.

(Comment 2) One comment said that the collection of information will not have any practical utility unless the reason for the proposed collection is to provide better FDA understanding of the PET drug production industry, to facilitate upcoming inspections, and to work with PET facilities in meeting areas of compliance under part 212. Another comment said that FDA has not adequately explained the purpose of these regulations.

(Response) FDA's CGMP regulations in part 212 are useful and necessary because they help ensure that PET drug products meet the requirements of the FD&C Act regarding safety, identity, strength, quality, and purity. The requirements are specifically designed to take into account the unique characteristics of PET FDA drugs, including their short half-lives and the fact that most PET drugs are produced at locations that are very close to the patients to whom the drugs are administered. As mentioned by the comment, the collection of information also provides FDA with a better understanding of the PET production industry.

(Comment 3) One comment said that the number of PET drug production facilities estimated by FDA is not reflective of the current number of registered PET production facilities operating in the United States, and that the burden estimates are based on 129 PET drug production facilities surveyed. The comment said that the actual number of PET producers is over 150. The comment said that FDA did not divide the PET drug production facilities into commercial sites and academic sites, and questioned whether the data are a fair representation of both. The comment also said that commercial facilities are able to hire a team of personnel dedicated to regulatory compliance, whereas the individual sites, like the academic labs, must perform the same functions with a much smaller staff. The comment said that FDA's burden estimates for academic labs are too low and unrealistic.

(Response) The 129 PET drug production facilities are based on facilities listed in new drug applications (NDAs) and abbreviated new drug applications (ANDAs) submitted to FDA. These 129 sites are producing PET drugs and are seeking approval from FDA for commercial distribution for clinical use (not for investigational or research use). It is unclear from the comment if the 150 sites include sites producing PET drugs for investigational

use. FDA requests that the commenter provide any updated data on the number of PET drug sites. In addition, FDA believes it is fair to make a general estimate across academic and commercial sites because the number of academic sites that apply for drug applications is a relatively small percentage.

(Comment 4) One comment said that the burden hour estimates are not accurate because each facility will compile their records differently and will use either a paper-based method or an electronic method. The comment said that FDA did not specify how many PET drug facilities are using paper-based records compared with electronic-based records, and that the burden hours for those using paper-based records would be higher than those using electronic recordkeeping. The comment said that the burden hour estimate is not a fair representation of the time needed for all PET facilities to comply with the recordkeeping requirements.

(Response) All commercial PET drug manufacturers are currently utilizing electronic records for recordkeeping as well as paper-based records. Commercial PET drug manufacturers comprise approximately 90 percent of the manufacturing sites. Many academic PET facilities still choose to use paper-based records. However, academic PET sites produce fewer batches for clinical use compared to commercial sites, and have fewer records. Sufficient resources and personnel are needed to perform the PET drug production activities, and we do not agree that academic PET drug sites limited in personnel and resources bear more of the regulatory burden. After a firm's recordkeeping process is established, the burdens are generally the same for entering records into an electronic system or a paper-based system. In addition, we question whether it is worthwhile to prepare separate estimates for commercial versus academic sites because academic sites are a small percentage of the total.

(Comment 5) One comment said that the estimate of 30 minutes per batch production and control record should be increased to 90 minutes because of the following responsibilities: Recording the identification number, tracking number, and lot number of each equipment item, component, or reagent utilized in the production of the PET drug; reviewing and recording daily sterility data for 14 days after release and inoculation; and quality assurance review of all batch record entries.

(Response) FDA agrees that some of the responsibilities may take additional time, and we have increased the burden estimate to 1 hour.

(Comment 6) One comment said that the recordkeeping estimate of 10 minutes for components, containers, and closures should be increased to 60 minutes because of the following responsibilities: To document the receipt, quarantine, and release of each component at separate and distinctly timed intervals; to recover certificates of analysis; contacting vendors; requesting documents; receiving and printing documents and maintaining files for documents; and acceptance, which requires performing and recording lab results. For media, this includes completing packaging and shipping documents for offsite testing as well as specifying testing parameters to the contract lab.

(Response) To log in each incoming component may take 10 minutes, but the time needed to perform all procedures as described by the commenter, including verifying that the component meets the firm's internal specifications, will take longer. Therefore, we have we have increased the burden estimate to 30 minutes.

(Comment 7) One comment said that the estimate of 36 out-of-specification investigations per year should be increased to 120 investigations because FDA requires an investigation of not only those that are most serious but also every incident involving an unexpected result.

(Response) FDA disagrees that 36 out-of-specification investigations per year are too low based on the information from our field alert reporting system. Out-of-specification investigations pertain to those products not meeting one or more of its release specifications. On the other hand, certain deviations in manufacturing also warrant investigations in order to prevent future recurrence. It is unlikely that a firm could have 120 total investigations per facility.

(Comment 8) One comment said that the use of automated collection techniques and other forms of information technology increase costs to producers: Software solutions with necessary validation costs could cost $100,000; support and maintenance could cost $20,000 per year; and applications training and implementing the electronic methods require several months of effort.

(Response) There will be initial costs to establish an electronic recordkeeping system, but once the system is set up, the annual costs will be minimal. FDA requires electronic records (i.e., batch records and analytical test records) to comply with the basic electronic records requirements at 21 CFR part 11, namely, record security and an audit trail. Those sites that are under corporate management can apply their electronic recordkeeping system to all sites within the same corporation.

(Comment 9) One comment asked to see the list of questions from the survey that was used to determine the time spent to comply with the recordkeeping requirements.

(Response) In making our estimates of the time spent in complying with these information collection requirements, we relied on communications we have had with PET producers, visits by our staff to PET facilities, and our familiarity with both PET and general pharmaceutical manufacturing practices. There was no formal survey to industry.

(Comment 10) One comment suggested that FDA establish an ''on-line database'' requiring a username and password for access to minimize the burden of the collection of information on respondents.

(Response) FDA believes the information collection burden is reasonable at this time, and we have no plans to implement an online database.

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR Section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per record-keeper	Total hours
Batch Production and Control Records 212.20(c) and (e); 212.50(a) and (b).	129	1.71	221	20	4,420
Batch Production and Control Records 212.20(d) and (e); 212.50(c); 212.80(c).	129	501	64,629	1	64,629

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]—Continued

21 CFR Section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per record-keeper	Total hours
Equipment and Facilities Records 212.20(c); 212.30(b); 212.50(d); 212.60(f).	129	15	1,935	1	1,935
Equipment and Facilities Records 212.30(b); 212.50(d); 212.60(f).	129	3,758	484,782	.08 (5 minutes).	40,237
Records of Components, Containers, and Closures 212.20(c); 212.40(a) and (b).	129	2	258	1	258
Records of Components, Containers, and Closures 212.40(e)	129	36	4,644	.5 (30 minutes).	2,322
Laboratory Testing Records 212.20(c); 212.60(a) and (b); 212.61(a); 212.70(a), (b), and (d).	129	25	3,225	1	3,225
Laboratory Testing Records 212.60(g); 212.61(b); 212.70(d)(2) and (d)(3).	129	501	64,629	.16 (10 min.).	10,728
Conditional Final Releases 212.70(f)	129	1	129	1	129
Out-of-Specification Investigations 212.20(c); 212.71(a)	129	36	4,644	1	4,644
Out-of-Specification Investigations 212.71(b)	129	1	129	1	129
Reprocessing Procedures 212.20(c); 212.71(d)	129	1	129	1	129
Distribution Records 212.20(c); 212.90(a)	129	1	129	1	129
Distribution Records 212.90(b)	129	501	64,629	.25 (15 min.).	16,157
Complaints 212.20(c); 212.100(a)	129	1	129	1	129
Complaints 212.100(b) and (c)	129	1	129	.5 (30 min.)	65
Total					149,266

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

21 CFR Section	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
Sterility Test Failure Notices 212.70(e)	129	.25	32	1	32

[1] There are no capital costs or operating and maintenance costs associated with this information collection.

Dated: July 12, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–17213 Filed 7–17–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0747]

Assessment of the Risk of Human Salmonellosis Associated With the Consumption of Tree Nuts; Request for Comments, Scientific Data and Information

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; request for comments and for scientific data and information.

SUMMARY: The Food and Drug Administration (FDA or we) is requesting comments and scientific data and information that may help us in performing a quantitative assessment of the risk of human salmonellosis (an infection with bacteria called *Salmonella*) associated with the consumption of tree nuts. The purpose of the risk assessment will be to quantify the public health risk associated with the consumption of potentially *Salmonella* contaminated tree nuts and to evaluate the impact of risk-based preventive controls on the risk of human salmonellosis arising from consumption of tree nuts.

DATES: Submit either electronic or written comments and scientific data and information by October 16, 2013.

ADDRESSES: Submit electronic comments and scientific data and information to *http://www.regulations.gov.* Submit written comments and scientific data and information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Sherri Dennis, Center for Food Safety and Applied Nutrition (HFS–06), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–1914.

SUPPLEMENTARY INFORMATION:

I. Background

The consumption of whole raw almonds has been associated with outbreaks of human salmonellosis (an infection with bacteria called *Salmonella*), during the years 2000–2001 (Ref. 1) and the years 2003–2004 (Ref. 2). Salmonellosis has also been associated with other tree nuts such as desiccated coconut (i.e., coconut meat which has been shredded or flaked and then dried to remove as much moisture as possible) (Ref. 3) and pine nuts (Ref. 4). In addition, *Salmonella* has been found in a variety of tree nuts destined for human consumption including almonds (Ref. 5), cashew nuts and Brazil nuts (Ref. 6), macadamia nuts (Ref. 7), walnuts (Ref. 8) and pistachio nuts (Ref. 9). In the United States, tree nuts have repeatedly been recalled due to *Salmonella* contamination; between 2009 and 2012 pine nuts, pistachios, shelled hazelnuts, walnuts, cashew nuts

and macademia nuts have been recalled because of potential *Salmonella* contamination (Refs. 10 and 11). These outbreaks, published reports of *Salmonella* in tree nuts destined for human consumption, and recalls emphasize the need to assess the risk of salmonellosis associated with tree nuts intended for human consumption, and to evaluate the appropriate risk-based preventive controls needed to reduce the risk of human salmonellosis.

The exact sequence of events leading to human salmonellosis outbreaks from consumption of tree nuts is not fully understood. For example, during the 2000–2001 outbreak, investigations supported previous findings (Ref. 12) that contamination and cross-contamination risks exist within tree nut facilities and at preceding points of production (Ref. 1). Notably, the specific 2000–2001 *Salmonella* outbreak strain was shown to persist in one of the affected orchards for a period of at least 5 years, emphasizing the potential risk of cross-contamination even years after *Salmonella* is introduced into an orchard (Ref. 13).

Risk assessments can be used to evaluate potential risk reduction strategies; determine the adequacy and expected efficacy of preventive controls; and guide risk management policies, outreach efforts, data collection initiatives, and research priorities. The purpose of this risk assessment will be to quantify the public health risk associated with the consumption of tree nuts potentially contaminated with *Salmonella,* and to evaluate the impact of risk-based preventive controls on the risk of human salmonellosis arising from consumption of tree nuts. The risk assessment model will be used to evaluate practices used in the United States, as well as policies related to risk-based preventive controls. Specifically, the risk assessment will assist us in determining the levels of contamination reduction appropriate for reducing the risk of human salmonellosis from tree nuts.

II. Request for Comments and Scientific Data and Information

We are requesting comments and the submission of scientific data and information relevant to this risk assessment. We specifically request scientific data and information concerning, but not limited to, the following factors that may affect the risk of human salmonellosis associated with the consumption of tree nuts:

1. *Salmonella* contamination in different tree nuts sampled at harvest, distribution (including transportation), manufacturing/processing plant (including at times before, during, and after application of treatments designed to reduce bacterial contamination), retail, or anywhere else in the supply chain, including:

- The frequency of detecting the presence of *Salmonella* in different types of domestically produced or imported tree nuts, sampled at different stages of the farm-to-fork continuum as described previously. If available, for each data point, we also invite information regarding the following: (1) How the nuts were handled prior to analysis (e.g., pre-processing storage conditions, processing treatments and conditions, post-processing storage, etc.); (2) the size of the analytical unit; (3) number of positives; (4) total number tested and the time period in which the testing was conducted; (5) test method; and (6) sampling protocol (e.g., simple random, stratified random, targeted);
- The number of *Salmonella* present per amount (i.e., unit volume or weight) of contaminated domestically produced or imported tree nuts, sampled at different stages of the farm-to-fork continuum as described previously. If available, for each data point, we also invite information regarding the following: (1) How the nuts were handled prior to analysis (e.g., pre-processing storage conditions, processing treatments and conditions, post-processing storage, etc.); (2) the analytical method used; and (3) sampling protocol (e.g., simple random, stratified random, targeted). We ask that the testing data be provided in unaggregated form and that Most-Probable Number (MPN) patterns as well as raw data (e.g., number of positive and negative tubes per dilution step in the MPN analysis) be provided if available;
- The frequency of detecting the presence of *Salmonella* in tree nut lots associated with outbreaks of human salmonellosis. If available, for each data point, we also invite information regarding the following: (1) How the nuts were handled prior to analysis (e.g., pre-processing storage conditions, processing treatments and conditions, post-processing storage, etc.); (2) size of the analytical unit; (3) number of positives; (4) total number tested; (5) analytical test method; and (6) sampling protocol (e.g., simple random, stratified random, targeted); and
- The number of *Salmonella* present per amount (i.e., unit volume or weight) of contaminated tree nuts associated with outbreaks of human salmonellosis. If available, for each data point, we also invite information regarding the following: (1) How the nuts were handled prior to analysis (e.g., pre-processing storage conditions, processing treatments and conditions, post-processing storage, etc.); (2) analytical method used; and (3) sampling protocols (e.g., simple random, stratified random, targeted). We ask that the testing data be provided in unaggregated form and that MPN patterns as well as raw data (e.g., number of positive and negative tubes per dilution step in the MPN analysis) be provided if available; in addition, we would ask that data regarding the variability in the number of *Salmonella* cells present in different samples from the same lot of contaminated nuts associated with an outbreak also be provided if available.

2. *Salmonella* survival, growth or inactivation dynamics in different tree nuts during transportation and storage, including:

- Data or models on survival, growth or inactivation of *Salmonella* in specific tree nuts, including the potential effects of nut composition, water activity, and storage temperature;
- Data or models on survival, growth, or inactivation of *Salmonella* at different stages along the tree nut farm-to-fork continuum, potentially as a function of relative humidity during storage, geographic region, or season; and
- Data or models on survival, growth or inactivation of *Salmonella* in different foods made with *Salmonella*-contaminated tree nuts as ingredients.

3. Current food consumption practices in the United States, including:

- The frequency with which different tree nuts or foods containing tree nuts are consumed by population subgroups (e.g., general adult population, immunocompromised persons, and the elderly);
- The frequency with which different tree nuts are consumed raw (i.e., without undergoing any treatment designed to reduce bacterial contamination on tree nuts between the time of harvest and the time of consumption) by different population subgroups;
- The frequency with which tree nuts that have undergone treatments designed to reduce bacterial contamination are consumed by different population subgroups; and
- Serving sizes for different tree nuts, including serving sizes for consumption of raw tree nuts and/or tree nuts that have undergone treatments designed to reduce bacterial contamination between the time of harvest and the time of consumption.

4. Storage, handling and processing conditions that may affect *Salmonella* survival, growth, or inactivation along

the farm-to-fork continuum and the impact of these conditions on *Salmonella* concentrations on tree nuts, including:

- Typical storage conditions (e.g., time, temperature, relative humidity) for different tree nuts, from the time of harvest until the application of treatments designed to reduce bacterial contamination, and whether those storage conditions change *Salmonella* contamination levels;
- The types of treatments designed to reduce bacterial contamination that are typically applied to different tree nuts before retail, the frequency with which these treatments are applied to different types of tree nuts, the exact processing conditions (e.g., time, temperature, relative humidity), and the efficacy of these treatments in reducing *Salmonella* contamination on different tree nuts;
- Typical storage conditions (e.g., time, temperature, relative humidity) for different tree nuts, from the time treatments designed to reduce bacterial contamination are applied to the time the tree nuts are consumed, including typical storage conditions at retail and in the consumer home.
- The types of handling practices that are typically applied to different tree nuts by the consumer before consumption that may change Salmonella contamination levels, and the typical conditions (e.g., time, temperature) that are applied during these practices.

5. Other comments, including the types of tree nuts that should be evaluated in this risk assessment and information about which types of tree nuts may enter the U.S. market without the application of treatments designed to reduce bacterial contamination.

III. Comments

Interested persons may submit either electronic comments and scientific data and information to *http://www.regulations.gov* or written comments and scientific data and information to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

IV. References

The following references have been placed on display in the Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday. We have verified the Web site addresses in the References section, but we are not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register**.

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13. Uesugi, A.R., M.D. Danyluk, R.E. Mandrell, L.J. Harris. ''Isolation of *Salmonella* Enteritidis phage type 30 from a single almond orchard over a 5-year period.'' *Journal of Food Protection,* 70(8): pp. 1784–1789, 2007.

Dated: July 9, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–17211 Filed 7–17–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–D–0811]

Guidance for Industry: Enforcement Policy Regarding Investigational New Drug Requirements for Use of Fecal Microbiota for Transplantation To Treat Clostridium difficile Infection Not Responsive to Standard Therapies; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a guidance for industry entitled ''Enforcement Policy Regarding IND Requirements for Use of Fecal Microbiota for Transplantation to Treat *Clostridium difficile* Infection Not Responsive to Standard Therapies,'' dated July 2013. This guidance informs members of the medical and scientific community and other interested persons that we intend to exercise enforcement discretion regarding the investigational new drug (IND) requirements for the use of fecal microbiota for transplantation (FMT) to treat *C. difficile* infection not responding to standard therapies. FDA intends to exercise this discretion provided that the treating physician obtains adequate informed consent from the patient or his or her legally authorized representative for the use of FMT products. Informed consent should include, at a minimum, a statement that the use of FMT products to treat *C. difficile* is investigational and a discussion of its potential risks. This policy does not extend to other uses of FMT. FDA intends to exercise this discretion on an interim basis while we further consider the matter. This guidance has an immediate implementation date because FDA has

determined that prior public participation is not feasible or appropriate.

DATES: Submit either electronic or written comments on Agency guidances at any time.

ADDRESSES: Submit written requests for single copies of the guidance to the Office of Communication, Outreach and Development (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

Submit electronic comments on the guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Paul E. Levine, Jr., Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Enforcement Policy Regarding IND Requirements for Use of Fecal Microbiota for Transplantation to Treat *Clostridium difficile* Infection Not Responsive to Standard Therapies,'' dated July 2013. This guidance is being issued consistent with FDA's good guidance practices (GGP) regulation § 10.115 (21 CFR 10.115). This guidance is being implemented without prior public comment because the Agency has determined that prior public participation is not feasible or appropriate (§ 10.115(g)(2)). The Agency made this determination because the guidance requires immediate implementation for public health reasons. This guidance deals with an urgent issue affecting patients with life-threatening infections with *C. difficile.* Although this guidance document is immediately in effect, it remains subject to comment in accordance with the Agency's GGPs regulation.

Fecal microbiota collected from healthy individuals are being investigated for use in the treatment of *C. difficile* infection. Published data suggest that the use of fecal microbiota to restore intestinal flora may be an effective therapy in the management of refractory *C. difficile* infection. However, the efficacy and safety profile of this intervention have not yet been fully evaluated in controlled clinical trials.

In the **Federal Register** of February 25, 2013 (78 FR 12763), FDA announced a public workshop, entitled ''Fecal Microbiota for Transplantation,'' which was held on May 2 and 3, 2013. The purpose of the workshop was to provide a forum for the exchange of information, knowledge, and experience among the medical and scientific community about the regulatory and scientific issues associated with FMT. During that workshop, and in subsequent communications, physicians and scientists expressed concern to FDA that FMT is not appropriate for study under the Agency's IND regulations (21 CFR part 312). Some health care providers stated that applying IND requirements will make FMT unavailable and suggested that an alternative regulatory approach is needed to ensure the widespread availability of FMT for individuals with *C. difficile* infection unresponsive to standard therapies.

FDA acknowledges these concerns. The Agency intends to exercise enforcement discretion regarding the IND requirements for the use of FMT to treat *C. difficile* infection not responding to standard therapies, provided that the treating physician obtains adequate informed consent from the patient or his or her legally authorized representative for the use of FMT products. Informed consent should include, at a minimum, a statement that the use of FMT products to treat *C. difficile* is investigational and a discussion of its potential risks. FDA intends to exercise this discretion on an interim basis while the Agency further considers the matter.

This policy does not extend to other uses of FMT. Data related to the use and study of FMT to treat diseases or conditions other than *C. difficile* infection are limited, and study of FMT for these other uses is not included in this enforcement policy.

This guidance represents the Agency's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

III. Electronic Access

Persons with access to the Internet may obtain the guidance at either *http://www.fda.gov/RegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov.*

Dated: July 12, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–17223 Filed 7–17–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0001]

Advisory Committee for Pharmaceutical Science and Clinical Pharmacology; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Advisory Committee for Pharmaceutical Science and Clinical Pharmacology.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on September 25, 2013, from 8 a.m. to 5 p.m.

Location: Bethesda North Marriott Hotel and Conference Center, White Oak Room, 5701 Marinelli Rd., Bethesda, MD. The hotel phone number is 301–822–9200.

Contact Person: Yvette Waples, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, Fax: 301–847–8533, email: *ACPS-CP@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously

announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: On September 25, 2013, the committee will discuss optimal strategies for the evaluation, interpretation, and communication of drug-drug interaction (DDI) information. FDA will seek input on: (1) Best practices in DDI communication through prescription drug product labels (i.e., ''package inserts''), namely: (a) Appropriate format for presentation (e.g. tables, graphs, text) of DDI information; (b) level of detail of DDI study results; and (c) appropriate wording for clinical recommendations based on empirical data versus anticipated interactions; (2) appropriate criteria for determining whether or not to describe DDI information derived from the literature in product labels; and (3) how package insert information on DDIs is used by various end-users (e.g., prescribers, dispensers, DDI database curators) in decision making and/or communication.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before September 11, 2013. Oral presentations from the public will be scheduled between approximately 12:45 p.m. and 1:45 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before September 3, 2013. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by September 4, 2013.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Yvette Waples at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: July 12, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–17212 Filed 7–17–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Research Dissemination and Implementation & Sleep Education Projects.

Date: August 26, 2013.

Time: 12:30 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Keith A. Mintzer, Ph.D., Scientific Review Officer, Office of Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7186, Bethesda, MD 20892–7924, 301–594–7947 *mintzerk@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: July 12, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–17183 Filed 7–17–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Pediatric Pulmonary Vascular Disease Bioinformatics Clinical Coordinating Center.

Date: August 29, 2013.

Time: 9:30 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 7182, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Susan Wohler Sunnarborg, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge

Drive, Room 7182, Bethesda, MD 20892 , *sunnarborgsw@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: July 12, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–17185 Filed 7–17–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel; NIEHS Microbiome Review Meeting.

Date: August 6, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T. W. Alexander Drive, Research Triangle Park, NC 27709.

Contact Person: Janice B. Allen, Ph.D., Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Science, P.O. Box 12233, MD EC–30/Room 3170 B, Research Triangle Park, NC 27709, 919/541–7556.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: July 11, 2013.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–17189 Filed 7–17–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, July 18, 2013, 8:00 a.m. to July 19, 2013, 6:00 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD, 20892 which was published in the **Federal Register** on June 18, 2013, 78 FR 36553–36554.

The meeting will be held on July 17–July 18, 2013. The meeting location and time remain the same. The meeting is closed to the public.

Dated: July 12, 2013.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–17184 Filed 7–17–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA: Pilot Projects on Sports-Related Brain and Spinal Cord Injury.

Date: August 12–13, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Suzan Nadi, Ph.D., MD, FAAP, MSC, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217B, MSC 7846, Bethesda, MD 20892, 301–435–1259, *nadis@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Brain and Eye Disorders.

Date: August 12, 2013.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Samuel C Edwards, Ph.D., IRG CHIEF, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7846, Bethesda, MD 20892, (301) 435–1246, *edwardss@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Program Project: Protease Inhibitor Resistance.

Date: August 13, 2013.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Eduardo A Montalvo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7852, Bethesda, MD 20892, (301) 435–1168, *montalve@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Vascular Biology.

Date: August 13, 2013.

Time: 1:30 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Larry Pinkus, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4132, MSC 7802, Bethesda, MD 20892, (301) 435–1214, *pinkusl@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Vascular Biology.

Date: August 13, 2013.

Time: 1:50 p.m. to 2:15 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: Larry Pinkus, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4132, MSC 7802, Bethesda, MD 20892, (301) 435–1214, *pinkusl@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: July 12, 2013.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–17187 Filed 7–17–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Muscular Dystrophy Coordinating Committee (MDCC).

The meeting will be open to the public and accessible by live webcast.

Name of Committee: Muscular Dystrophy Coordinating Committee.

Type of Meeting: Open Meeting.

Date: August 26, 2013.

Time: 8:30 a.m. to 4:30 p.m. *Eastern Time*—Approximate end time.

Agenda: The purpose of this meeting is to bring together the committee members to update one another on individual agency efforts, to discuss planning for revision of the Action Plan for the Muscular Dystrophies, and to discuss two issues affecting all types of muscular dystrophy: (a) Transitions to adulthood, career, and independence for individuals with muscular dystrophy and (b) therapeutic misconception in clinical trials.

An agenda is posted to the MDCC Web site: *http://www.ninds.nih.gov/find_people/groups/mdcc/index.htm.*

Registration: To register, please go to: *https://meetings.ninds.nih.gov/meetings/2013_MDCC_Meeting/.*

Webcast Live: For those not able to attend in person, this meeting will be webcast at: *http://videocast.nih.gov/.*

Place: Neuroscience Center, 6001 Executive Boulevard, Conference Room A1/A2, Rockville, Maryland 20852–1699.

Contact Person: John D. Porter, Ph.D., Executive Secretary, Muscular Dystrophy Coordinating Committee, National Institute of Neurological Disorders and Stroke, NIH, 6001 Executive Boulevard, NSC 2172, Bethesda, MD 20892, (301) 496–5739, *porterjo@ninds.nih.gov.*

Any member of the public interested in presenting oral comments to the committee may notify the Contact Person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives of organizations may submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and if accepted by the committee, presentations may be limited to five minutes. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding their 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.

Attendance is limited to seating space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should inform the Contact Person listed below in advance of the meeting.

All visitors must go through a security check at the Lobby of the Neuroscience Center (NSC) building to receive a visitor's badge. A government issued photo ID is required.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: July 11, 2013.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–17188 Filed 7–17–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center For Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel;, Molecular and Cellular Neuroscience.

Date: July 29, 2013.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Richard D Crosland, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4158, MSC 7850, Bethesda, MD 20892, 301–435–1220, *rc218u@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Genetics of Cell Regulation.

Date: August 1, 2013.

Time: 2:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Elaine Sierra-Rivera, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6184, MSC 7804, Bethesda, MD 20892, 301–435–1779, *riverase@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Continuous Submission Panel.

Date: August 6, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Mike Radtke, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4176, MSC 7806, Bethesda, MD 20892, 301–435–1728, *radtkem@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Shared Instrumentation: PET/CT/SPECT.

Date: August 6, 2013.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Malgorzata Klosek, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4188, MSC 7849, Bethesda, MD 20892, (301) 435–2211, *klosekm@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS).

Dated: July 11, 2013.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–17190 Filed 7–17–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Short-term Training Program.

Date: August 15, 2013.

Time: 1:30 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 7194, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Charles Joyce, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7196, Bethesda, MD 20892–7924, 301–435–0288, *cjoyce@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: July 12, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–17186 Filed 7–17–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel; P41 National Resource of Functional Imaging (2014/01).

Date: October 10–11, 2013.

Time: 3:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, Suite 920, 6707 Democracy Boulevard, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Ruixia Zhou, Ph.D., Scientific Review Officer, 6707 Democracy Boulevard, Suite 957, Bethesda, MD 20892, 301–496–4773, *zhour@mail.nih.gov.*

Dated: July 11, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–17182 Filed 7–17–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAKA01000.L16100000.DO0000. LXSILBSW0000]

Notice of Intent To Prepare a Resource Management Plan for the Bering Sea-Western Interior Planning Area, Alaska and Associated Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) Anchorage Field Office, Anchorage, Alaska, intends to prepare a Resource Management Plan (RMP) with an associated Environmental Impact Statement (EIS) for the RMP for the Bering Sea-Western Interior (BSWI) Planning Area and by this notice announces the beginning of the scoping process to solicit public comments and identify issues. The RMP will replace the existing 1981 Southwest Planning Area Management Framework Plan and portions of the 1986 Central Yukon RMP Record of Decision.

DATES: This notice initiates the public scoping process for the RMP and associated EIS. Comments on issues may be submitted in writing until December 16, 2013.

The date(s) and location(s) of any scoping meetings will be announced at least 15 days in advance through local media, newspapers and the BLM Web site at: *www.blm.gov/ak.* All comments must be received prior to the close of the 150-day scoping period or 15 days after the last public meeting, whichever is later. Additional opportunities for public participation will be announced upon publication of the Draft RMP/EIS.

ADDRESSES: You may submit comments on issues and planning criteria related to the Bering Sea-Western Interior RMP/EIS by any of the following methods:

- In person at public scoping meetings in communities within the planning area. The BLM will announce the meeting dates, times and specific locations through news releases and on the BLM Web site at *www.blm.gov/ak*
- Web site: *www.blm.gov/ak*
- email: BSWI_RMP_COMMENT@blm.gov
- fax: 907–267–1267
- mail: BLM Anchorage Field Office, *Attention—BSWI RMP,* 4700 BLM Road, Anchorage, AK 99507

Documents pertinent to this planning effort may be examined at the BLM Anchorage Field Office, 4700 BLM Road, Anchorage, AK 99507, and on the BLM Alaska Web site: *www.blm.gov/ak.*

FOR FURTHER INFORMATION CONTACT: For further information and/or to have your name added to our mailing list, contact RMP Team Lead, Anchorage Field Office, telephone: 907–267–1246; address: BLM Anchorage Field Office, 4700 BLM Road, Anchorage, AK 99507; email: *BSWI_RMP_COMMENT@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. FIRS is available 24 hours a day, 7 days a week, to leave a question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: This document provides notice that the BLM Anchorage Field Office, Anchorage, Alaska, intends to prepare an RMP with an associated EIS for the Bering Sea-Western Interior Planning Area, announces the beginning of the public scoping process, and seeks public input on issues and planning criteria. The

Planning Area is located in western Alaska and encompasses approximately 62 million acres of land, including 10.6 million acres managed by the BLM. The planning area includes all lands south of the Central Yukon watershed to the southern boundary of the Kuskokwim River watershed, and all lands west of Denali National Park and Preserve to the Bering Sea, including Saint Lawrence, Saint Matthew and Nunivak islands. The purpose of the public scoping process is to identify issues that will influence the scope of the environmental analysis, including alternatives, and guide the planning process. Preliminary issues for the planning area have been identified by the BLM; Federal, state, and local agencies; and other stakeholders. The issues include: Subsistence resource uses, special recreation permitting, mineral development, the Iditarod National Historic Trail and Unalakleet Wild River National Landscape Conservation System units, air, soil and water, vegetation, special status species, fish and wildlife, cultural resources, paleontology, traditional cultural properties, visual resources, wildland fire management, lands with wilderness characteristics, forestry, livestock grazing, recreation and visitor service, trails and travel management, lands and realty, social and economic conditions, renewable energy, hazardous materials and sites, and climate change.

The preliminary planning criteria include:

1. Opportunities for public comment and participation in the formulation of the plan will be encouraged throughout the RMP/EIS process;

2. Valid existing rights will be recognized and protected;

3. The BLM will consider subsistence uses and minimize adverse impacts in accordance with Section 810 of the ANILCA;

4. In accordance with the provisions of 42 U.S.C. 4332(2)(F), salmon will be accorded recognition as an international subsistence resource pursuant to the provisions of the Pacific Salmon Treaty of 1985 and those of the Yukon River Salmon Act of 2000, Public Law 106–450, 16 U.S.C. 5727 et seq., November 7, 2000;

5. The BLM will work cooperatively with State and Federal agencies, federally recognized tribes, and municipal governments. Agencies (including federally recognized tribal governments) with jurisdiction by law or special expertise will be consulted to determine if cooperating agency status is appropriate and desired;

6. Department of the Interior guidance, Alaska Department of Fish and Game objectives, and Federal Subsistence Board requirements and mandates will be considered in decisions related to wildlife management;

7. The RMP will be consistent with the Bureau's H–1601–1 Land Use Planning Handbook, Appendix C; Program-Specific and Resource-Specific Decision Guidance and supplemental program guidance manuals and handbooks;

8. The plan will be consistent with the standards and guidance set forth in FLPMA, NEPA, Council on Environmental Quality (CEQ) regulations, the National Historic Preservation Act (NHPA), the Wild and Scenic Rivers Act, the National Trails System Act, the Migratory Bird Treaty Act, ANILCA, the Surface Mine Reclamation and Enforcement Act of 1977, and other pertinent Federal laws, regulations, and policies;

9. The plan will be consistent with the BLM-Alaska Land Health Standards;

10. Designations for Off-Highway Vehicles for all public lands within the Planning Area will be completed according to the regulations found in 43 CFR Subpart 8342;

11. Multiple-Use classifications will be consistent with the provisions of 43 CFR Parts 2400, 2410, 2420, 2430, 2440, 2450, 2460 and 2470;

12. Current and potentially new special management areas, such as Areas of Critical Environmental Concern (ACECs), will be considered using the criteria found in 43 CFR 1610.7–2;

13. Lands addressed in the RMP will be BLM-administered surface lands and subsurface estate. No decisions will be made for lands not managed by the BLM;

14. Review and classification of waterways as eligible for inclusion in the National Wild and Scenic River System will be consistent with the Bureau's Manual 6400—Wild and Scenic Rivers—Policy and Program Direction for Identification, Evaluation, Planning, and Management;

15. The BLM will incorporate Environmental Justice considerations in the planning alternatives to respond to Environmental Justice issues facing minority populations, low income communities, and tribes living near public lands and using public land resources;

16. Social scientific data and methods will be integrated into the entire planning process, from preparing the pre-plan to implementation and monitoring;

17. Impacts from the alternatives considered in the RMP will be analyzed in an EIS developed in accordance with regulations at 43 CFR Subpart 1610 and 40 CFR Part 1502;

18. Decisions in the plan will be compatible with existing plans and policies of adjacent local, state, and Federal agencies to the maximum extent possible while remaining consistent with the purposes, policies, and programs of Federal law, and regulations applicable to public lands;

19. The plan will assess all BLM-managed lands in the planning area for wilderness characteristics using criteria established by BLM Manual 6310. The RMP will examine options for managing lands with wilderness characteristics and determine the most appropriate land use allocations for these lands. Considering wilderness characteristics in the land use planning process may result in several outcomes, including, but not limited to: (1) Emphasizing other multiple uses as a priority over protecting wilderness characteristics; (2) emphasizing other multiple uses while applying management restrictions (conditions of use, mitigation measures) to reduce impacts to wilderness characteristics; and, (3) the protection of wilderness characteristics as a priority over other uses.

You may submit comments on issues and planning criteria in writing to the BLM at any public scoping meeting, or you may submit them to the BLM using one of the methods listed in the **ADDRESSES** section above. All comments must be received prior to the close of the 150-day scoping period or 15 days after the last public meeting, whichever is later. 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.

The BLM will evaluate identified issues and will place them into one of three categories:

1. Issues to be resolved in the plan;

2. Issues to be resolved through policy or administrative action; or

3. Issues beyond the scope of this plan.

The BLM will provide an explanation in the Draft RMP/Draft EIS as to why an issue was placed in category two or three. The public is also encouraged to help identify any management questions and concerns that should be addressed in the plan. The BLM will work collaboratively with interested parties to identify the management decisions that

are best suited to local, regional, and national needs and concerns.

The BLM will use NEPA public participation requirements to assist the agency in satisfying the public involvement requirements under Section 106 of the NHPA (16 U.S.C. 470(f)) pursuant to 36 CFR 800.2(d)(3). The information about historic and cultural resources within the area potentially affected by the proposed action will assist the BLM in identifying and evaluating impacts to such resources in the context of both NEPA and Section 106 of the NHPA.

The BLM will consult with Indian tribes on a government-to-government basis in accordance with Executive Order 13175 and other policies. Pursuant to the Alaska Native Claims Settlement Act (ANCSA) of 1971, as well as Executive Order 13175, the BLM will also consult with Alaska Native corporations. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration. Federal, State, and local agencies, along with tribes and other stakeholders that may be interested in or affected by the proposed action that the BLM is evaluating, are invited to participate in the scoping process and, if eligible, may request or be requested by the BLM to participate in the development of the environmental analysis for the RMP as a cooperating agency.

The BLM will use an interdisciplinary approach to develop the plan in order to consider the variety of resource issues and concerns identified. Specialists with expertise in the following disciplines will be involved in the planning process: Lands and realty, wildlife, fisheries, subsistence, vegetation, outdoor recreation, fire management, forestry, minerals and geology, air quality, paleontology, hydrology, soils, socioeconomics and visual resource management.

Authority: 40 CFR 1501.7, 43 CFR 1610.2.

Bud C. Cribley,

State Director.

[FR Doc. 2013–17224 Filed 7–17–13; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLORP04000 L12320000.EA0000.LVRDOR090000.HAG12–0255]

Notice of Intent To Collect Fees on the John Day River, Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to applicable provisions of the Federal Lands Recreation Enhancement Act (REA), the Bureau of Land Management's (BLM) Prineville District Office is proposing to begin collecting fees for day and overnight trips (floats) on the Service Creek (River Mile 157) to Tumwater Falls (River Mile 10) stretch of the John Day River, between Service Creek, Oregon, and the confluence of the John Day River and the Columbia River, Oregon. The John Day River system was designated as a National Wild and Scenic River on October 28, 1988, and as a Special Area in the John Day Basin Resource Management Plan (February 2001).

DATES: To ensure that comments will be considered, the BLM must receive written comments on the proposal to collect fees by August 19, 2013. Effective 6 months after publication of this notice, the BLM's Prineville District Office will initiate fee collection between Service Creek and Tumwater Falls on the John Day River, unless the BLM publishes a **Federal Register** notice to the contrary.

ADDRESSES: You may submit comments on this fee collection proposal by any of the following methods:

- *Email:* *BLM_OR_PR_JDRiver_Study@blm.gov* with ''fee proposal'' in the title.
- *Fax:* (541) 416–6798.
- *Mail:* Chip Faver, BLM Central Oregon Field Manager, Prineville District Office, 3050 Northeast 3rd Street, Prineville, Oregon 97754.

Copies of the fee proposal are available at the BLM Prineville District Office at the above address and online at *http://www.blm.gov/or/resources/recreation/johnday/boat-fee.php*

FOR FURTHER INFORMATION CONTACT: Heidi Mottl, Recreation Planner, at the email or physical addresses above, or via phone at 541–416–6700. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1 (800) 877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The Service Creek to Tumwater Falls stretch of the John Day River offers outstanding opportunities for overnight and day-use floating in a raft, drift boat, kayak, or canoe. The special area also provides access to high-quality, outdoor recreation opportunities (primarily fishing, sightseeing, hunting, camping, hiking, and swimming). Maintaining a naturally appearing recreation setting, a quality social setting, and enhancing the visitor experience on the river while protecting natural resources, requires substantial Federal investment. The BLM is committed to finding the proper balance between public use and the protection of resources.

Fee amounts will be posted on the BLM Prineville District Office Web site and at the Prineville District. Copies of the Fee Business Plan are available at the Prineville District Office, on the Prineville District Web site and the BLM Oregon State Office.

The BLM may collect fees in conjunction with a Special Recreation Permit (SRP) as required to manage visitor use, protect natural resources, and achieve the goals of the John Day Basin Resource Management Plan. The special area qualifies as a site wherein visitors can be charged a fee in conjunction with an SRP authorized under Section 803(h) of the REA, 16 U.S.C. 6802(h). In accordance with the REA and implementing regulations at 43 CFR part 2930, visitors would obtain an individual or group SRP to float within the Service Creek to Tumwater Falls stretch of the John Day River. All fees collected would be used for expenses within the river corridor.

The BLM's goal for the John Day River fee program is to ensure that funding is available to protect resources and outstanding remarkable recreation values, maintain the area in a naturally appearing condition consistent with the recreation setting established by the RMP, and enhance visitor services and safety, including expanding garbage services and improving the Clarno boat launch.

In 1998, the John Day River System was established as a fee area under the Recreational Fee Demonstration Program, and in 2010, the BLM completed the John Day River Study to establish boating use capacities on the river. In July 2012, the BLM published the John Day River Fee Business Plan (plan), which outlines the operational

goals of the area and the purpose of the fee program. The plan provides management direction for public enjoyment of these public lands through the recreational experience of floating the river, while minimizing the potential for resource damage from authorized uses. The plan also provides a market analysis of local and comparable recreational experiences and sets the basis for the fee proposal. The plan is online at: *http://www.blm.gov/or/resources/recreation/johnday/boat-fee.php.*

The plan addresses recreation opportunities, the issuance of SRPs, and the charging of fees on a per-person per day or a per-person per launch basis. The John Day River Study and the plan, prepared pursuant to the REA and BLM recreation fee program policy, also address the establishment of a permit process and the collection of user fees. The plan articulates the rationale for charging recreation fees. In accordance with the BLM recreation fee program policy, the plan explains the fee-collection process and outlines how the fees would be used on the John Day River. The fee rates that would be charged have not yet been established, pending the mandatory review and recommendations of the John Day-Snake River Resource Advisory Committee (John Day-Snake RAC). Future adjustments in the fee amount would be made in accordance with the plan and through consultation with the John Day-Snake RAC and the public prior to a fee increase. Fee amounts will be posted onsite and online at the John Day River Web site at: *http://www.blm.gov/or/resources/recreation/johnday/.* Copies of the plan will be available at the BLM Prineville District Office and online at the John Day River site.

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.

Authority: 16 U.S.C. 6803(b) and 43 CFR 2932.13.

Carol Benkosky,

Prineville District Manager.

[FR Doc. 2013–17225 Filed 7–17–13; 8:45 am]

BILLING CODE 4310–33–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–857]

Certain Reduced Folate Nutraceutical Products and L-Methylfolate Raw Ingredients Used Therein; Commission Determination Not To Review Initial Determinations Terminating the Investigation as to Certain Respondents and Terminating the Investigation in the Entirety

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review initial determinations (''IDs'') (Order Nos. 14–15) of the presiding administrative law judge terminating the investigation as to certain respondents on the basis of settlement agreements and withdrawal of the complaint, and terminating the investigation in the entirety. The investigation is hereby terminated.

FOR FURTHER INFORMATION CONTACT: James A. Worth, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–3065. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on October 16, 2012, based on a complaint filed on September 10, 2012, on behalf of South Alabama Medical Science Foundation of Mobile, Alabama (''SASF''); Merck & Cie of Altdorf, Switzerland (''Merck''); and Pamlab LLC of Covington, Louisiana (''Pamlab''). 77 FR 63336 (October 16, 2012). The complaint alleged violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the sale for importation, importation, or sale within the United States after importation of certain reduced folate neutraceutical products and l-methylfolate raw ingredients used therein by reason of infringement of one or more of claims 37, 39, 40, 47, 66, 67, 73, 76,78–81, 83, 84, 86–89, 91, 92, 94–97, 99, 100, 110, 111, 113, 117, and 121 of U.S. Patent No. 5,997,915; claims 22, 26, and 32–38 of U.S. Patent No. 6,673,381; claims 1, 4–6, and 15 of U.S. Patent No. 7,172,778; and claims 1–3, 5, 6, 8, 9, 11–15, and 19–22 of U.S. Patent No. 6,011,040. The Commission's notice of investigation named as respondents Gnosis SpA of Desio, Italy; Gnosis Bioresearch SA of Sant'Antonino, Switzerland; Gnosis USA Inc. of Doylestown, Pennsylvania (collectively, ''the Gnosis Respondents''); and Macoven Pharmaceuticals LLC of Magnolia, Texas (''Macoven'').

On December 13, 2012, the Commission issued notice of its determination not to review an ID adding Viva Pharmaceuticals LLC as a new respondent. On February 4, 2013, the Commission issued notice of its determination not to review an ID to identify the new respondent as Viva Pharmaceuticals Inc. (''Viva'') rather than Viva Pharmaceuticals LLC.

On May 10, 2013, complainants SASF, Merck, and Pamlab filed an unopposed corrected motion for leave to add Nestle Health Science-Pamlab Inc. (''NHS-Pamlab'') as a complainant and change Pamlab's name to Camline LLC (''Camline''). On June 11, 2013, the administrative law judge issued an ID (Order No. 12) granting the motion.

On June 4, 2013, complainants SASF, Merck, NHS-Pamlab, and Camline and respondents Macoven and Viva filed an unopposed joint motion to terminate the investigation based on two settlement agreements (*i.e.,* one settlement agreement for each of these respondents). On June 11, 2013, the administrative law judge issued an ID (Order No. 14) granting the motion and found no indication that the settlement would have an adverse impact on the public interest.

Also on June 4, 2013, complainants SASF, Merck, NHS-Pamlab and Camline filed a motion to withdraw its amended complaint against the Gnosis Respondents. On June 11, 2013, the administrative law judge issued an ID (Order No. 15) granting the motion, finding good cause shown.

There were no petitions for review. Having considered the IDs (Order Nos. 14–15) and the relevant portions of the record, the Commission has determined not to review the subject IDs. The investigation is hereby terminated.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of Part 210 of the Commission's Rules of Practice and Procedure (19 CFR Part 210).

Issued: July 12, 2013.

By order of the Commission.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–17175 Filed 7–17–13; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–855]

Certain Sintered Rare Earth Magnets, Methods of Making Same and Products Containing Same; Commission Determination Not to Review an Initial Determination Granting an Unopposed Motion by Complainants; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (''ALJ'') initial determination (''ID'') (Order No. 130) granting complainants' unopposed motion to terminate the investigation as to remaining respondents Beats Electronics, LLC of Santa Monica, California (''Beat''); Bosch Security Systems, Inc. of Burnsville, Minnesota (''Bosch''); and Callaway Golf Co. of Carlsbad, California (''Callaway'') based upon withdrawal of the complaint, and terminating the investigation in its entirety.

FOR FURTHER INFORMATION CONTACT: Panyin A. Hughes, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–3042. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on September 21, 2012, based on a complaint filed by Hitachi Metals, Ltd. of Tokyo, Japan and Hitachi Metals North Carolina, Ltd. of China Grove, North Carolina (collectively, ''Hitachi Metals''). 77 FR 58578 (Sept. 21, 2012). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain sintered rare earth magnets, methods of making same and products containing same by reason of infringement of certain claims of United States Patent Nos. 6,461,565; 6,491,765; 6,527,874; and 6,537,385. The notice of investigation named several entities as respondents but only Beat, Bosch, and Callaway remain in the investigation.

On June 4, 2013, Hitachi Metals filed an unopposed motion to terminate the investigation as to respondents Beat, Bosch, and Callaway. Because Beat, Bosch, and Callaway are the only remaining respondents in the investigation, Hitachi Metals also moved for termination of the investigation in its entirety. On June 5, 2013, the Commission investigative attorney filed a response in support of the motion. No other responses to the motion were filed.

On June 13, 2013, the ALJ issued the subject ID, granting the motion and terminating the investigation in its entirety. The ALJ found that the motion complied with the requirements of Commission Rule 210.21(a) (19 CFR 210.21(a)) and that no extraordinary circumstances prohibited granting the motion. None of the parties petitioned for review of the ID.

The Commission has determined not to review the ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.42 of the Commission's Rules of Practice and Procedure (19 CFR 210.42).

Issued: July 12, 2013.

By order of the Commission.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–17174 Filed 7–17–13; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1105–0086]

Agency Information Collection Activities; Proposed Renewal of Previously Approved Collection; Comments Requested: Attorney Student Loan Repayment Program Electronic Forms

ACTION: 60-Day Notice.

The Department of Justice (DOJ), Justice Management Division, Office of Attorney Recruitment and Management (OARM), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for 60 days until September 16, 2013. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in the notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC, 20530.

Additionally, comments may be submitted to OMB via facsimile to 202–395–7285. Comments may also be submitted to the Department Clearance Officer, United States Department of Justice, Suite 1600, 601 D Street NW., Washington, DC 20530. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other

technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of information collection:* Renewal of a Currently Approved Collection.

(2) *The title of the collection:* Applications for the Attorney Student Loan Repayment Program.

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection:* *Form Number:* 1105–0086. Office of Attorney Recruitment and Management, Justice Management Division, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. Other: None.

The Department of Justice Attorney Student Loan Repayment Program (ASLRP) is an agency recruitment and retention incentive program based on 5 U.S.C. 5379, as amended, and 5 CFR part 537. The Department selects participants during an annual open season each spring. Any one currently employed as an attorney or hired to serve in an attorney position within the Department may request consideration for the ASLRP. The Department selects new attorneys each year for participation on a competitive basis and renews current beneficiaries who remain qualified for these benefits, subject to availability of funds. There are two types of application forms—one is for new requests, and the other for renewal requests. In addition, there is a three year service agreement form.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* The Department anticipates that on a yearly basis, about 225 respondents will complete the application for a new request. In addition, each year the Department expects to receive approximately 175 applications from attorneys and law clerks requesting renewal of the benefits they received in previous years. It is estimated that each new application will take one (1) hour to complete, and each renewal application approximately 15 minutes to complete.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual public burden associated with this collection is 269 hours.

If additional information is required, contact Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3W–1407B, Washington, DC 20530.

Dated: July 15, 2013.

Jerri Murray,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2013–17235 Filed 7–17–13; 8:45 am]

BILLING CODE 4410–PB–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—American Massage Therapy Association

Notice is hereby given that, on June 24, 2013, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), American Massage Therapy Association (''AMTA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the name and principal place of business of the standards development organization and (2) the nature and scope of its standards development activities. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the name and principal place of business of the standards development organization is American Massage Therapy Association, Evanston, IL. The nature and scope of AMTA's standards development activities are to develop, plan, establish, coordinate, and publish voluntary consensus standards applicable to the field of massage therapy.

Specifically, AMTA develops plans, establishes, coordinates, and publishes voluntary consensus standards in the form of basic standards for the entry-level curriculum necessary for safe and competent practice in an early massage career and the number of hours required to teach the essential components of the entry-level curriculum. AMTA develops and publishes these standards in cooperation with the Alliance for Massage Therapy Education, Associated Bodywork and Massage Professionals, the Commission on Massage Therapy Accreditation, The Federation of State Massage Therapy Boards, the Massage Therapy Foundation, and the National Certification Board for Therapeutic Massage and Bodywork. Through its standards development activities, AMTA seeks to ensure the highest quality of training and education in massage therapy. AMTA's standards development activities are ongoing in nature, and existing standards may be update and/or amended from time to time.

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2013–17228 Filed 7–17–13; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—ODVA, Inc.

Notice is hereby given that, on June 13, 2013, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), ODVA, Inc. (''ODVA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Warwick Instruments, London, UNITED KINGDOM; duagon AG, Dietikon, SWITZERLAND; Koyo Electronics Industries Co., Ltd.; Tokyo, JAPAN; vMonitor, LLC, Abu Dhabi, UNITED ARAB EMIRATES; and Jain Technology Co., Ltd., Seoul, REPUBLIC OF KOREA, have been added as parties to this venture.

Also, Office FA.com Co., Ltd., Tochigi, JAPAN; and Salem Automation Inc., Winston-Salem, NC, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and ODVA intends to file additional written notifications disclosing all changes in membership.

On June 21, 1995, ODVA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 15, 1996 (61 FR 6039).

The last notification was filed with the Department on February 22, 2013. A notice was published in the **Federal**

Register pursuant to Section 6(b) of the Act on March 19, 2013 (78 FR 16869).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2013–17237 Filed 7–17–13; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—International Electronics Manufacturing Initiative

Notice is hereby given that, on June 13, 2013, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), International Electronics Manufacturing Initiative (''iNEMI'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Arizona State University, Tempe, AZ; Aalto University, Finland, SWITZERLAND; CALCE, College Park, MD; Atotech USA, Rock Hill, SC; Fraunhofer IZM, Berlin, GERMANY; Samsung Electro-Mechanics Co., LTD, Gyeonggi-Do, REPUBLIC OF KOREA; AT&S, Leoben, AUSTRIA; ASSET, Richardson, TX; Emerson Network Power, Columbus, OH; Fiber QA, Old Lyme, CT; Griffith University, Brisbane, Queensland, AUSTRALIA; Akrometrix, Atlanta, GA; Assembléon, LA Veldhoven, THE NETHERLANDS; Doosan Corp. Electro-Materials BG, Yongin, Kyonggi-do, REPUBLIC OF KOREA; and Hillcrest Laboratories, Rockville, MD, have been added as parties to this venture.

Also, Foxconn, Taipei Hsien, TAIWAN; and Quanta Computer, Tao Yuan Shine, TAIWAN, have withdrawn as parties to this venture.

In addition, Tyco Electronic, Kawasaki, Kanagawa, JAPAN, has changed its name to TE Connectivity, Kawasaki, Kanagawa, JAPAN. Cookson Electronics, South Plainfield, NJ, has been acquired by Alnet, South Plainfield, NJ; and Research in Motion, Waterloo, Ontario, CANADA, has been acquired by Blackberry, Waterloo, Ontario, CANADA.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and iNEMI intends to file additional written notifications disclosing all changes in membership.

On June 6, 1996, iNEMI filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 28, 1996 (61 FR 33774).

The last notification was filed with the Department on December 15, 2009. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on January 19, 2010 (75 FR 2889).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2013–17233 Filed 7–17–13; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Advanced Media Workflow Association, Inc.

Notice is hereby given that, on June 21, 2013, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Advanced Media Workflow Association, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Arvato Systems S4M GmbH, Cologne, GERMANY; European Broadcasting Union, Geneva, SWITZERLAND; Sequencia Technologies, Wakefield, MA; The Weather Company, Atlanta, GA; VRT, Brussels, BELGIUM; Keith Graham (individual member), San Jose, CA; and Josef Marc (individual member), Delray Beach, FL, have been added as parties to this venture.

Also, Cognizant, Teaneck, NJ; Florical Systems, Gainsville, FL; RadiantGrid Solutions, Redman, WA; and Terry Harvey (individual member), Carbondale, IL, have withdrawn as parties to this venture. No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Advanced Media Workflow Association, Inc. intends to file additional written notifications disclosing all changes in membership.

On March 28, 2000, Advanced Media Workflow Association, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 29, 2000 (65 FR 40127).

The last notification was filed with the Department on March 20, 2013. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 15, 2013 (78 FR 22297).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2013–17232 Filed 7–17–13; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Heterogeneous System Architecture Foundation

Notice is hereby given that, on June 17, 2013, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Heterogeneous System Architecture Foundation (''HSA Foundation'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Tsinghua University, Beijing, PEOPLE'S REPUBLIC OF CHINA; Seoul National University, Dept. of Computer Science and Engineering, Seoul, REPUBLIC OF KOREA; Missouri University of Science and Technology, Rolla, MO; Industrial Technology Research Institute of Taiwan, Chutung, Hsinchu, TAIWAN, Northeastern University, Boston, MA; The University of the Mississippi, Oxford, MS; Oak Ridge National Labs, Oak Ridge, TN; Coanonical/Ubuntu, Isle of Man, UNITED KINGDOM; TEI of Crete, Stavromeno, Heraklion, GREECE, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and HSA Foundation intends to file additional

written notifications disclosing all changes in membership.

On August 31, 2012, HSA Foundation filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on October 11, 2012 (77 FR 61786).

The last notification was filed with the Department on March 25, 2013. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 15, 2013 (78 FR 22296).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2013–17234 Filed 7–17–13; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cooperative Research Group on Mechanical Stratigraphy and Natural Deformation in Eagle Ford Formation and Equivalent Boquillas Formation, South-Central and West Texas

Notice is hereby given that, on June 5, 2013, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Southwest Research Institute—Cooperative Research Group on Mechanical Stratigraphy and Natural Deformation in Eagle Ford Formation and Equivalent Boquillas Formation, South-Central and West Texas (''Eagle Ford'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Anadarko Petroleum Corporation, The Woodlands, TX; and Eagle Ford TX LP, Houston, TX, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Eagle Ford intends to file additional written notifications disclosing all changes in membership.

On February 23, 2012, Eagle Ford filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 15, 2012 (77 FR 15395).

The last notification was filed with the Department on November 2, 2012. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 11, 2012 (77 FR 73676).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2013–17230 Filed 7–17–13; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Network Centric Operations Industry Consortium, Inc.

Notice is hereby given that, on June 12, 2013, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Network Centric Operations Industry Consortium, Inc. (''NCOIC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Atlantic Organization for Security, Brussels, BELGIUM; and Winthrop Management Services, McLean, VA, have been added as parties to this venture.

Also, Fraunhofer Institute for Open Communication Systems (FOKUS), Berlin, Germany; LFV, Besoksadress Vikboplan, Sweden; and HAVELSAN Hava Elektonik Sanayi ve Ticaret A.S., Ankara, Turkey, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NCOIC intends to file additional written notifications disclosing all changes in membership.

On November 19, 2004, NCOIC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 2, 2005 (70 FR 5486).

The last notification was filed with the Department on March 15, 2013. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 8, 2013 (78 FR 20948).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2013–17231 Filed 7–17–13; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below to modify the application of existing mandatory safety standards codified in Title 30 of the Code of Federal Regulations.

DATES: All comments on the petitions must be received by the Office of Standards, Regulations and Variances on or before August 19, 2013.

ADDRESSES: You may submit your comments, identified by ''docket number'' on the subject line, by any of the following methods:

1. *Electronic Mail: zzMSHA-comments@dol.gov.* Include the docket number of the petition in the subject line of the message.
2. *Facsimile:* 202–693–9441.
3. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209–3939, Attention: George F. Triebsch, Director, Office of Standards, Regulations and Variances. Persons delivering documents are required to check in at the receptionist's desk on the 21st floor. Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations and Variances at 202–693–

9447 (Voice), *barron.barbara@dol.gov* (Email), or 202–693–9441 (Facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

(1) An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

(2) That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket No: M–2013–008–M.

Petitioner: U.S. Silver Idaho, Inc., 1801 California Street, Suite 4900, Denver, Colorado 80202.

Mine: Galena Mine, MSHA I.D. No. 10–00082, located in Shoshone County, Idaho.

Regulation Affected: 30 CFR 57.14106(a) (Falling object protection).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of Load, Haul, Dump (LHD) utility vehicles underground without falling object protection structures (FOPS) because it would result in a diminution of safety to the miners affected.

a. Both the mining method and the ground control at the Galena mine are such that there is no increased hazard from falling objects.

(1) The Galena mine complex hosts a wide range of rock conditions. To ensure a safe work environment, the company has employed a combination of good mining practices, rock bolting fixtures, surface support, backfill, and timber in its ground support plan. Hence, the LHDs are never operated under unsupported ground.

(2) The minimum ground support standards in the areas where the subject LHDs are used in the Galena mine are as follows: in areas where overhand cut and fill is used, the back and ribs are supported with a minimum of 4-foot bolts and holey boards or monster mats. Support used on the ribs include a combination of bolts, holey boards, mats, stulls, and screen. Additional rib support of 6-foot rebar on 6-foot spacing is also used in certain areas. Additional surface support such as wire mesh, poly mesh, mats, and shotcrete is also installed when conditions warrant.

(3) In areas where underhand cut and fill is used, the back must have mesh across the cement fill/rock contacts, which is attached by plates over the exposed 6-foot rebar bolts. A minimum of 4-foot split sets on 3-foot centers with wire mesh is used for rib support. Wire mesh is installed with adequate overlap and to within 5 feet of the sill. Where warranted, additional surface support such as wire mesh, poly mesh, mats, and shotcrete can be installed.

(4) In areas of vertical development, the back is supported with a minimum of 4-foot bolts and holey boards or monster mats. The hanging and footwall is supported with a minimum of 4-foot bolts and one row of mats per timber set. Raise timber is installed with a minimum of 12 inches of heading between the cap and wall.

(5) The mine's current practice is to not exceed 11 feet in cut height to facilitate hand-held jack leg drilling and bolt installation safely and productively.

b. There have been no documented falling object incidents at the Galena mine.

(1) Mine policies at the Galena mine prohibit miners from working under unsupported ground.

(2) No miner working in an LHD without FOPS has been injured by falling material.

c. Rock burst potential at the Galena mine does not mean there is an increased hazard of falling objects.

(1) While geological conditions at the Galena mine may make the mine susceptible to rock bursts, rock bursts are not falling object events. They more typically involve the sudden expulsion of material from the ribs. Because of the more or less horizontal nature of that expulsion, FOPS would provide little or no protection. Moreover, rock bursts typically occur at blasting time, after all personnel have exited active headings. Seismic activities at the Galena mine are actively monitored and a rock burst control plan is in place as required by 30 CFR 57.3461.

(2) This plan is specifically designed to reduce the occurrence of rock bursts, monitor procedures where detection methods are used, and provide additional measures to minimize exposure of persons to rock bursts, such as stress shadowing and other mining techniques.

d. Complying with 30 CFR 57.14106(a) would subject miners to greater hazards than they are subjected to under current conditions.

e. Significant changes to the ground control plan at the Galena mine would need to be made to accommodate clearance for the FOPS.

f. Enlarging the heading height at the Galena mine exposes more rib height, which reduces the stope ribs' structural stability.

(1) Sound geotechnical principles dictate that ground support requirements are directly linked to the span of the excavation; this applies to both lateral and vertical spans. Greater spans require longer fixtures more closely spaced to overcome the forces and loads that the spans are subjected to. Successful narrow vein mining methods are dependent upon minimizing spans and the inherent risks associated with exceeding critical dimensions.

(2) Requiring the use of FOPS at the Galena mine will dictate wider and higher excavations to accommodate the FOPS. LHD operators will be subjected to exposures and hazards not faced today, and even greater exposure will exist for the personnel on the ground installing and maintaining the ground support and performing other essential tasks. A typical mining cycle in a mechanized area of the Galena mine only requires about 2 hours of the available work cycle; the remainder of the cycle is consumed by installing and maintaining the ground support, advancing utilities, and drilling and charging the next advance sequence. This work is performed from the ground with hand-held tools. All risks and exposures previously detailed for the LHD operators will be faced by the ground miner for an even greater period of time. Additionally, a miner's ability to adequately scale and provide for proper rock bolting processes will be negatively impacted by the higher, wider spans.

(3) Hanging wall stability in the Galena mine is most significantly influenced by two main factors: The geologic composition of the wall rock, and the height and attitude of the hanging wall. The higher and flatter the hanging wall, the greater the likelihood of deterioration or failure as a result of the effects of gravity, as well as the lateral stresses present that provide for rock burst potential.

(4) Mining higher and/or wider increases cycle times, increases exposure, and radically influences stability. Techniques and procedures have been developed at the Galena mine that provide for safe mineral extraction on a sustained basis, and minimize the deterioration and failure potential of

hanging walls in the ore producing areas. The positive effects of these techniques and procedures that have proved effective over time will be negated by creating wider and higher excavations.

g. FOPS will become entangled with existing ground support and compromise the existing ground control.

(1) Backs in the Galena mine complex vary in terms of height and the type of ground support used. Currently the LHDs used in the Galena mine are being used in stopes where wire mesh, roof bolts, cables, split sets, holey boards, mats, stulls, and screens are used. The primary supports used to address ground control in the area often protrude from the back and ribs and are vulnerable to damage by moving equipment. If the FOPS were to get caught in this material, not only would ground support be compromised if the FOPS inadvertently dislodged any of these support fixtures, but the equipment operator could also experience injury. In addition, the LHD itself could be damaged if there is impact with the rib or with ground support fixtures protruding from the rib.

(2) The Galena mine operates a number of other LHDs for which there are no original equipment manufacturer (OEM) FOPS available. This is significant because for those units where no OEM FOPS exists, there may not be adequate room to attach such a structure without impinging into the operator's compartment in such a way as to either increase the likelihood of injury or severely impede visibility.

h. FOPS would only provide protection from falling objects during a small fraction of the stoping cycle. Currently miners at the Galena mine spend 1–2 hours in the LHD mucking in each stoping cycle. The rest of the time the miners are on foot or using other equipment without FOPS, and those employees are considered to be safe enough with only personal protective equipment to protect them (for example, a miner bolting with a jackleg, loading a round, preparing for backfill, etc.). When considering that these miners are working without FOPS protection for most of their shifts, requiring FOPS on LHDs certainly flies in the face of logic.

i. The FOPS mounting hardware creates pinch points. The most dangerous pinch points on an LHD are in and around the articulation joint. The operator's cab is positioned immediately adjacent to the articulation, and operators must be very cautious to avoid this hazard. Clearances in the articulation area are small without FOPS installed and even more so with the canopy on. On the 2cy LHDs, a post must be installed to mount the canopy creating a pinch point hazard.

j. FOPS will reduce visibility to operators.

(1) Visibility is a key operational safety factor in operating any type of heavy machinery. This is particularly true in mechanized narrow-vein mining as practiced at the Galena mine. While operating an LHD with FOPS installed, the operator's sight lines become obstructed, increasing risk to the operator and to others working in the area.

(2) Miners at the Galena mine have stated they are opposed to the addition of FOPS to the LHDs because of the decrease of visibility to equipment operators. The reduction of line-of-sight visibility for the operator increases the potential for ''struck by'' injuries to miners traveling or working in the vicinity of the equipment. Additionally, to alleviate the limited visibility, the miners may be inclined to lean out of the side of the equipment, which not only negates any benefit of the canopy, but also increases the risk for head and neck injuries.

k. FOPS will decrease operator space. The LHD operators' cabs at the Galena mine are already cramped, and will become even more cramped with FOPS installed. Some experienced operators and valued employees will no longer be able to operate the LHDs because they will not be able to fit in the cabs with FOPS installed. Overhead clearance within the operator's cab will likely be an issue as the LHD is subject to driving over potholes or rocks while tramming, causing the machine to bounce and the operators to hit their heads on the canopy.

l. FOPS would inhibit rescue efforts if a rescue is required. Having FOPS installed on LHDs would greatly inhibit any rescue efforts that required an operator to be removed from the cab. If FOPS were installed on the LHDs, it would be difficult to extract the operator from the cab, as extrication gear is designed to work in a vertical orientation. It would also be difficult to transport victims out over an LHD stalled in a narrow stope heading, because the FOPS structure itself would impose a vertical obstruction midway along the length of the machine that a stretcher would have to be lifted over or around. Under the current operating conditions, there is adequate room to perform extrication without undue complications.

m. The standard is not applicable to LHDs, which are low profile machines specifically designed for underground mining.

(1) LHDs perform differently than front-end loaders. Front end-loaders load trucks or hoppers. LHDs load themselves, generally by filling their bucket with muck, and then haul the loaded material over varying, often lengthy, distances to a dump point. In contrast, front-end loaders fill their scoops or buckets multiple times for very short trips to haul trucks or other forms of equipment used purely for haulage. While both LHDs and front-end loaders have a hydraulically operated digging and lifting bucket on the front, the similarities between the two pieces of equipment end there.

(2) The configuration of the two types of equipment is also strikingly different. In general, the operator's compartment of a front-end loader sits directly behind the scoop or bucket, facing forward to facilitate the equipment's sole mission of picking up multiple loads for the purpose of transferring them to haulage equipment. The operator's cab of a typical LHD is located in the middle of the machine to facilitate the equipment taking a single scoop or bucket load and then tramming in the opposite direction to a dump point. The midships positioning of the operator's cab on an LHD is intended to allow it to haul comparatively long distances in narrow areas where it is often unable to turn the machine around before initiating the haul. In this configuration the operator sits sideways, maximizing his ability to see where he is going when traveling in either direction.

(3) Although the standard clearly applies to front-end loaders used in surface operations, when discussing the standard for backup alarms, 30 CFR 57.14132 explicitly mentions and exempts load, haul, dump vehicles from that standard by name; [the back-up alarm/horn requirement] is applicable to surface mines and surface areas of underground mines only, because the construction of load, haul, dump vehicles generally used underground is such that the view to the rear is less likely to be obstructed. If 30 CFR 57.14106(a) was meant to apply to LHDs, the standard would have specifically referenced this type of equipment.

The petitioner asserts that application of the existing standard would result in diminution of safety to the miners.

Docket No: M–2013–009–M.

Petitioner: Hecla Limited, 1801 California Street, Suite 4900, Denver, Colorado 80202.

Mine: Lucky Friday Mine, MSHA I.D. No. 10–00088, located in Shoshone County, Idaho.

Regulation Affected: 30 CFR 57.14106(a) (Falling object protection).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of Load, Haul, Dump (LHD) utility vehicles underground without falling object protection structures (FOPS) because it would result in a diminution of safety to the miners affected.

a. Ground control at the Lucky Friday mine provides that there is no hazard from falling objects.

(1) Based on Lucky Friday's extensive rock burst and ground control plans, the mines current practice is to not exceed 11 feet in cut height. This is a major design component that is based on years of stoping experience in the Lucky Friday mine. In the past, stopes mined higher than 11 feet on a cut exhibited less reliable rib conditions.

(2) All of Lucky Friday's current stoping is being done by the underhand cut and fill method, which allows the operator to create an engineered stope backfill in a completed stope heading that becomes the back in the next cut taken below. Because the back is constructed to engineered specifications, there is high confidence of low risk of roof failure under the typical variations of wall rock geology encountered in the Lucky Friday mine.

(3) As a result, stope crews (including LHD operators) work under cemented backfill that is substantially reinforced internally with bolts, wire, timbers, and cables as needed. The fill reaches a compressive strength of 200 psi within two to three days, at which time stope crews are allowed to reenter beneath the filled areas. The fill reaches strengths of 500 to 700 psi in 28 days. Wire mesh is attached to the ends of the bolts protruding below the cemented fill as the stoping crew mines the next cut. When conditions warrant, additional bolting is installed in the fill.

b. There have been no documented falling object incidents at the Lucky Friday mine for 20 years. In the 1990's two miners were injured at the Lucky Friday mine when they were operating LHDs with FOPS under unsupported ground. Since that time, the mine's policies have been modified so that miners are prohibited from working under unsupported ground. No miner working in an LHD without FOPS has been injured by falling rock since the modification of this policy.

c. Rock burst potential at the Lucky Friday mine does not mean there is an increased hazard of falling objects.

(1) While geological conditions at the Lucky Friday mine may make the mine susceptible to rock bursts, rock bursts are not falling object events. They more typically involve the sudden expulsion of material from the ribs. Because of the more or less horizontal nature of that expulsion, FOPS would provide little or no protection. Moreover, rock bursts typically occur at blasting time, after all personnel have exited active headings. Seismic activities at the Lucky Friday mine are actively monitored and a rock burst control plan is in place as required by 30 CFR 57.3461.

(2) This plan is specifically designed to reduce the occurrence of rock bursts, monitor procedures where detection methods are used, and provide additional measures to minimize exposure of persons to rock bursts, such as stress shadowing and other mining techniques.

d. Complying with 30 CFR 57.14106(a) would subject miners to greater hazards than they are subjected to under current conditions.

e. Significant changes to the ground control plan at the Lucky Friday mine would need to be made to accommodate clearance for the FOPS.

f. Clearance at the Lucky Friday mine over the FOPS would become an issue.

(1) At the stoping cut starts, there is generally adequate overhead clearance in a standard 11-foot-high cut to allow the LHD to operate without hitting the stope ventilation duct—a 30-inch vent bag. However, as the stope increases in length, or as stope headings branch off the main vein, a 42-inch vent bag is substituted on the fan end to reduce resistance in the duct and to keep airflow in the stope at acceptable volumes.

(2) Reducing the size of the vent bag is not an option, as ventilation would be compromised. In the Lucky Friday's hot humid stoping environment it is essential to maximize ventilation flows so as to optimize performance of the air cooling systems. This performance must be achieved in concert with effective removal of air contaminants in the heading such as dust and diesel particulate matter, while providing adequate airflow for personnel and effective aspiration of diesel engines on the equipment. Any reduction in the size of the vent bag restricts airflow, negatively impacting ventilation performance in all of these areas. The 42-inch diameter vent bag now in use is the optimum size for the dimensions of the standard stopes.

(3) If the use of FOPS on LHDs is required, the only viable solution to clearance problems is to enlarge the minimum heading size, which will result in increased risks to miners.

g. Enlarging the heading heights exposes more rib height, which reduces the stope ribs' structure stability.

(1) The Gold Hunter portion of the Lucky Friday mine is a deep mining operation located within the Wallace formation. The Wallace is composed primarily of vertical, thinly bedded, relatively weak and plastic argillites. Due to the depth of this mine, some degree of yielding of the rock around development headings and stopes is typical and expected. When the rock yields and delaminates, it loses much of its inherent strength. The orientation of the bedding, which is parallel to the veins, has a distinct impact on the type and depth of yielding around a tunnel or stope. In particular, excavations that are driven parallel to the bedding (which includes all stopes since bedding strikes parallel to the vein structure) will experience some degree of delamination or buckling of the thin argillite beds when subjected to the normal in situ stress state. The onset of significant buckling, as well as the depth of the resulting damage to rock in the walls, is roughly proportional to the height of exposed vertical walls in the stopes. Control of the yielding volume and deformation of stopes is achieved by two general design factors: (a) Minimizing opening size; and (b) application of ground support with sufficient density and length to maintain the yielded rock around the excavation.

(2) Hecla's experience at the Gold Hunter portion of the Lucky Friday mine indicates that wall stability in stopes is particularly sensitive to wall height. For example, experience in the 550–14 stope (5500 Level) illustrates the issue fairly clearly. In 2010, mining in the 550–14 stope was initiated beneath the 15 stope, which was completed approximately 5 years prior. The initial plan was to leave a 10-feet-high solid ore pillar beneath the 15 stope backfill during cut #1 of 550–14 stope. This pillar was to be left since the backfill in the 15 stope had been in place for a long time and had deteriorated due to stope closure and water accumulation. As cut #1 of the 14 stope was advanced, it became obvious that a 10-feet-pillar height was insufficient and that 15 feet would be required. Cut #1 was stopped and cut #2 was initiated and advanced below the new backfill in cut #1 with the objective that it would be mined beyond the limits of cut #1 where the cut height would be increased from 10 feet to 15 feet, thus creating the desired 15-feet-pillar height. In the process of increasing the stope height from the standard 10 feet to the taller 15 feet, the wall of the stope failed at a height of 13 feet by buckling of beds. The failure, which was about 18 feet in length and 10 feet in height and approximately 6 feet to 8 feet in depth, occurred roughly

59 feet behind the advancing stope face. Currently, cut heights in stopes at the Gold Hunter are limited to 10 feet to minimize the potential of this type of failure.

h. Keeping stope height to a minimum is fundamental to support strategy in potentially seismic conditions. Seismic conditions can sometimes occur at the Gold Hunter portion of the Lucky Friday mine primarily due to encountering preexisting, poorly oriented fault structures in proximity to the mining. A seismic event, resulting from slip on a fault structure will result in production of a seismic wave that transits through the rock mass and can impact the stopes. Damage from these events is largely the result of expulsion of disturbed (yielded) rock from the walls of the stopes. Since the back of stopes in the underhand mining method is engineered, damage has primarily been observed from the disturbed rock in the walls. Control of the expulsion of the pre-damaged wall is performed by limiting the height of the stopes and by installation of ground support, including heavy bolting and meshing. Increasing stope height results in greater depth of yielded/damaged rock in the walls. This greater depth of yielding creates a greater mass of weakened material that could potentially be ejected into a tunnel under seismic loading. The density and length of ground support required to dissipate the kinetic energy of this mass increases dramatically with the size of the failed zone. Thus, keeping the stope height to a minimum is fundamental to support strategy in potentially seismic conditions.

i. To minimize the deterioration and failure potential of hanging walls in the ore producing areas, techniques and procedures developed at the Lucky Friday mine provide for safe mineral extraction on a sustained basis. The positive effects of these techniques and procedures that have proved effective over time will be negated by creating wider and higher excavations.

j. FOPS will become entangled with existing ground support and compromise the existing ground control.

(1) Backs in the Lucky Friday mine complex vary in terms of height and the type of ground support used. Currently the LHDs in the Lucky Friday mine are being used in stopes where wire mesh, roof bolts, cables, split sets, holey boards, mats, stulls and screens are used. The primary supports used to address ground control in the area often protrude from the back and ribs and are vulnerable to damage by moving equipment. If the FOPS were to get caught in this material, not only would ground support be compromised if the FOPS inadvertently dislodged any of these support fixtures, but the equipment operator could also experience injury. In addition, the LHD itself could be damaged if there is impact with the rib or with ground support fixtures protruding from the rib.

(2) In a recent test at the Lucky Friday mine where an experienced LHD operator was asked to test performance of LHD equipment with FOPS, the LHD became trapped in a stope heading as the FOPS hooked on a split set that was installed to hold wire mesh against the rib. The operator was not trapped in the cab and was able to exit safely, but another LHD had to be brought in to extricate the trapped machine. A test of a LHD with a newly installed FOPS showed damage from the impacts with the stope rib after only minutes of operation.

k. FOPS would only provide protection from falling objects during a small fraction of the stoping cycle. Currently miners at the Lucky Friday mine spend 1–2 hours in the LHD mucking in each stoping cycle. The rest of the time the miners are on foot or using other equipment without FOPS, and those employees are considered to be safe enough with only personal protective equipment to protect them (for example, a miner bolting with a jackleg, loading a round, preparing for backfill, etc.). When considering that these miners are working without FOPS protection for most of their shifts, requiring FOPS on LHDs certainly flies in the face of logic.

l. The FOPS mounting hardware creates pinch points.

(1) The most dangerous pinch points on an LHD are in and around the articulation joint. The operator's cab is positioned immediately adjacent to the articulation, and operators must be very cautious to avoid this hazard. Clearances in the articulation area are small without FOPS installed and even more so with the canopy on. On the 2cy LHD's, a post must be installed to mount the canopy creating a pinch point hazard.

(2) On one occasion at the Lucky Friday mine (before the FOPS were removed in the 1990s), a miner lost his finger when his LHD started to tip over and he grabbed the FOPS canopy for support. His finger was caught between the canopy and stope rib and was amputated.

m. FOPS will reduce visibility to operators.

(1) Visibility is a key operational safety factor in operating any type of heavy machinery. This is particularly true in mechanized narrow-vein mining as practiced at the Lucky Friday mine. While operating an LHD with FOPS installed, the operator's sight lines become obstructed, increasing risk to the operator and to others working in the area.

(2) Miners at the Lucky Friday mine have stated they are opposed to the addition of FOPS to the LHDs because of the decrease of visibility to equipment operators. The reduction of line-of-sight visibility for the operator increases the potential for ''struck by'' injuries to miners traveling or working in the vicinity of the equipment. Additionally, to alleviate the limited visibility, the miners may be inclined to lean out of the side of the equipment, which not only negates any benefit of the canopy, but also increases the risk for head and neck injuries.

n. FOPS will decrease operator space. The LHD operators' cabs at the Lucky Friday mine are already cramped, and will become even more cramped with FOPS installed. Some experienced operators and valued employees will no longer be able to operate the LHDs because they will not be able to fit in the cabs with FOPS installed. Overhead clearance within the operator's cab will likely be an issue as the LHD is subject to driving over potholes or rocks while tramming, causing the machine to bounce and the operators to hit their heads on the canopy.

o. FOPS would inhibit rescue efforts if a rescue is required. Having FOPS installed on LHDs would greatly inhibit any rescue efforts that required an operator to be removed from the cab. If FOPS were installed on the LHDs, it would be difficult to extract the operator from the cab, as extrication gear is designed to work in a vertical orientation. It would also be difficult to transport victims out over an LHD stalled in a narrow stope heading, because the FOPS structure itself would impose a vertical obstruction midway along the length of the machine that a stretcher would have to be lifted over or around. Under the current operating conditions, there is adequate room to perform extrication without undue complications.

p. The standard is not applicable to LHDs, which are low profile machines specifically designed for underground mining.

(1) LHDs perform differently than front-end loaders. Front end-loaders load trucks or hoppers. LHDs load themselves, generally by filling their bucket with muck, and then haul the loaded material over varying, often lengthy, distances to a dump point. In contrast, front-end loaders fill their scoops or buckets multiple times for

very short trips to haul trucks or other forms of equipment used purely for haulage. While both LHDs and front-end loaders have a hydraulically operated digging and lifting bucket on the front, the similarities between the two pieces of equipment end there.

(2) The configuration of the two types of equipment is also strikingly different. In general, the operator's compartment of a front-end loader sits directly behind the scoop or bucket, facing forward to facilitate the equipment's sole mission of picking up multiple loads for the purpose of transferring them to haulage equipment. The operator's cab of a typical LHD is located in the middle of the machine to facilitate the equipment taking a single scoop or bucket load and then tramming in the opposite direction to a dump point. The midships positioning of the operator's cab on an LHD is intended to allow it to haul comparatively long distances in narrow areas where it is often unable to turn the machine around before initiating the haul. In this configuration the operator sits sideways, maximizing his ability to see where he is going when traveling in either direction.

(3) Although the standard clearly applies to front-end loaders used in surface operations, when discussing the standard for backup alarms, 30 CFR 57.14132 explicitly mentions and exempts load, haul, dump vehicles from that standard by name; [the back-up alarm/horn requirement] is applicable to surface mines and surface areas of underground mines only, because the construction of load, haul, dump vehicles generally used underground is such that the view to the rear is less likely to be obstructed. If 30 CFR 57.14106(a) was meant to apply to LHDs, the standard would have specifically referenced this type of equipment.

The petitioner asserts that application of the existing standard would result in diminution of safety to the miners.

Dated: July 12, 2013.

George F. Triebsch,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 2013–17202 Filed 7–17–13; 8:45 am]

BILLING CODE 4510–43–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Arts Advisory Panel Meeting

AGENCY: National Endowment for the Arts, National Foundation on the Arts and Humanities.

ACTION: Notice of Meetings

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given one meeting of the Arts Advisory Panel to the National Council on the Arts will be held at the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506 as follows (ending times are approximate; all times are Eastern Daylight Time):

Literature (application review): Room 716. This meeting will be closed.

DATES: August 1, 2013; 9:00 a.m. to 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Further information with reference to these meetings can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506; *plowitzk@arts.gov* or call 202/682–5691.

SUPPLEMENTARY INFORMATION: The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of February 15, 2012, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of Title 5, United States Code.

Dated: July 15, 2013.

Kathy Plowitz-Worden,

Panel Coordinator, National Endowment for the Arts.

[FR Doc. 2013–17246 Filed 7–17–13; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL SCIENCE FOUNDATION

National Science Board; Sunshine Act Meetings; Notice

The National Science Board's Executive Committee, pursuant to NSF regulations (45 CFR Part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n–5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of a teleconference for the transaction of National Science Board business and other matters specified, as follows:

DATE AND TIME: Wednesday, July 24, 2013, from 11:00 a.m. to 12:00 noon EDT.

SUBJECT MATTER: (1) Chairman's opening remarks; (2) Discussion of agenda for August 2013 meeting; and (3) Approval of open minutes of previous meetings.

STATUS: Open.

LOCATION: This meeting will be held by teleconference at the National Science Board Office, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. A public listening line will be available. Members of the public must contact the Board Office [call 703–292–7000 or send an email message to *nationalsciencebrd@nsf.gov*] at least 24 hours prior to the teleconference for the public listening number.

UPDATES AND POINT OF CONTACT: Please refer to the National Science Board Web site *www.nsf.gov/nsb* for additional information. Meeting information and updates (time, place, subject matter or status of meeting) may be found at *http://www.nsf.gov/nsb/notices/*. Point of contact for this meeting is: Peter Arzberger, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 292–8000.

Ann Bushmiller,

Senior Counsel to the National Science Board.

[FR Doc. 2013–17393 Filed 7–16–13; 4:15 pm]

BILLING CODE 7555–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Information Collection; Questionnaire for Non-Sensitive Positions (SF 85)

AGENCY: U.S. Office of Personnel Management.

ACTION: 60-Day Notice and request for comments.

SUMMARY: Federal Investigative Services (FIS), U.S. Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on an information collection request (ICR), Office of Management and Budget (OMB) Control No. 3206–NEW, for Questionnaire for Non-Sensitive Positions, Standard Form 85 (SF 85). As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of OPM, including whether the information will have practical utility;

2. Evaluate the accuracy of OPM's estimate of the burden of the proposed

collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

DATES: Comments are encouraged and will be accepted until September 16, 2013. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Federal Investigative Services, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415, Attention: Donna McLeod or sent via email to *FISFormsComments@opm.gov.*

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Federal Investigative Services, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415, Attention: Donna McLeod or sent via email to *FIS FormsComments@opm.gov.*

SUPPLEMENTARY INFORMATION: The Questionnaire for Non-Sensitive Positions, SF 85, housed in a system named e-QIP (Electronic Questionnaires for Investigative Processing), is an information collection completed by applicants for, or incumbents of, Federal Government civilian or military positions, or positions in private entities performing work for the Federal Government under contract. The collection is used as the basis of information:

- by the Federal Government in conducting background investigations of persons under consideration for non-sensitive, low-risk positions as defined in Executive Order 10450 and 5 CFR part 731;
- by agencies in determining whether a person performing work for or on behalf of the Federal Government under a contract should be deemed eligible for logical or physical access or fit to perform the work anticipated, if the contract provides for such an adjudication.

The SF 85 is completed by civilian employees of the Federal Government, military personnel, and non-federal employees, including Federal contractors and individuals otherwise not directly employed by the Federal Government but who perform work for or on behalf of the Federal Government. It is estimated that 55,040 non-Federal individuals, will complete the SF 85 annually for investigations conducted by OPM. The SF 85 takes approximately 30 minutes to complete. The estimated annual burden for this form when used in OPM investigations is 27,520 hours.

Verbiage was added to the Authorization for Release of Information authorizing the Social Security Administration (SSA) to verify respondent's Social Security Number and provide the results to OPM. Clarifying language was added to the Authorization for Release of Information to specify that sources of information may include publically available electronic information. This ICR also requests categorizing the form as a common form. OPM will continue to estimate the burden based on all Federal agencies that submit the SF 85 to OPM for investigation. Once OMB approves the use of this common form, all Federal agencies using the form not in connection with an OPM investigation may request use of this this common form without additional 60 or 30 day notice and comment requirements. At that point, each agency will account for its number of respondents and the burden associated with the agency's use. No other changes are proposed.

U.S. Office of Personnel Management.

Elaine Kaplan,

Acting Director.

[FR Doc. 2013–17239 Filed 7–17–13; 8:45 am]

BILLING CODE 6325–53–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Renewal: Information Collection; Questionnaire for National Security Positions, Standard Form 86 (SF 86)

AGENCY: U.S. Office of Personnel Management.

ACTION: 30-Day Notice and request for comments.

SUMMARY: Federal Investigative Services (FIS), U.S. Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on an information collection request (ICR), Office of Management and Budget (OMB) Control No. 3206–0005, for Questionnaire for National Security Positions, Standard Form 86 (SF 86). As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of OPM, including whether the information will have practical utility;

2. Evaluate the accuracy of OPM's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

DATES: Comments are encouraged and will be accepted until August 19, 2013. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Room 10235, Washington, DC 20503, Attention: Jasmeet K. Seehra, OMB Desk Officer or sent via email to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974; and Federal Investigative Services, U.S. Office of Personnel Management, 1900 E Street NW., Washington, DC 20415, Attention: Donna McLeod or sent by email to *FISFormsComments@opm.gov.*

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Federal Investigative Services, U.S. Office of Personnel Management, 1900 E Street NW., Washington, DC 20415, Attention: Donna McLeod or sent by email to *FISFormsComments@opm.gov.*

SUPPLEMENTARY INFORMATION: This notice announces that OPM submitted to OMB a request for review and clearance of the revised information collection of information, Questionnaire for National Security Positions, SF 86, which is housed in a system named e-QIP (Electronic Questionnaires for Investigative Processing) and is an information collection completed by

applicants for, or incumbents of, Federal Government civilian or military positions, or positions in private entities performing work for the Federal Government under contract. The collection is used as the basis of information by the Federal Government in conducting background investigations, reinvestigations, and continuous evaluations, as appropriate, of persons under consideration for or retention in national security sensitive positions as defined in Executive Order 10450 and 5 CFR part 732, for positions requiring eligibility for access to classified information under Executive Order 12968, and by agencies in determining whether a person performing work for or on behalf of the Federal Government under a contract should be deemed eligible for logical or physical access when the nature of the work is sensitive and could bring about a material adverse effect on national security. The SF 86 is completed by civilian employees of the Federal Government, military personnel, and non-Federal employees, including Federal contractors and individuals otherwise not directly employed by the Federal Government but who perform work for or on behalf of the Federal Government. For applicants for civilian Federal employment, the SF 86 is to be used only after a conditional offer of employment has been made.

OPM seeks approval for the use of a common form to be used by all Federal agencies. It is estimated that 263,566 non-Federal individuals will complete the SF 86 annually for investigations conducted by OPM. The SF 86 takes approximately 150 minutes to complete. The estimated annual burden for this form, when used in OPM investigations, is 658,915 hours. The web-based system application that houses the SF 86 is e-QIP (Electronic Questionnaires for Investigations Processing) is a. This electronic data collection tool provides immediate data validation to ensure accuracy of the respondent's personal information. The e-Government initiative mandates that agencies utilize e-QIP for all investigations and reinvestigations. A variable in assessing burden hours is the nature of the electronic application. The electronic application includes branching questions and instructions which provide for a tailored collection from the respondent based on varying factors in the respondent's personal history. The burden on the respondent is reduced when the respondent's personal history is not relevant to a particular question, since the question branches, or expands for additional details, only for those persons who have pertinent information to provide regarding that line of questioning. For that reason, the burden on the respondent will vary depending on whether the information collection relates to the respondent's personal history. Additionally, once entered, a respondent's complete and certified investigative data remains secured in the e-QIP system until the next time the respondent is sponsored by an agency to complete a new investigative form. Upon initiation, the respondent's previously entered data (except ''yes/no'' questions) will populate a new investigative request, and the respondent will be allowed to update information and certify that data. In this instance, time to complete the form is reduced significantly.

Once OMB approves the use of this common form, all Federal agencies using the form not in connection with an OPM investigation may request the use of this common form without additional 60- or 30-day notice and comment requirements. At that point, each such agency will account for its number of respondents and the burden associated with the agency's use.

The 60-day notice of the proposed information collection was published in the **Federal Register** on March 12, 2013 (**Federal Register** Notices/Volume 78, Number 48, page 15755–15756), as required by 5 CFR Part 1320, affording the public an opportunity to comment on the form. Comments were received from the Department of Energy-Idaho National Laboratory (DOE–INL), the Department of Veterans Affairs (VA), the United States Air Force (USAF), Health and Human Services (HHS–CMS), Department of Homeland Security-Immigration and Customs Enforcement (DHS–ICE), the Office of the Secretary of Defense (OSD–CPMS), Federal Aviation Administration (FAA), and commenters from the public and OPM. Five advocacy groups, the Bazelon Center for Mental Health Law, Mental Health America, Consortium of Citizens with Disabilities (CCD), Family Equality Council, and Department of Justice (DOJ) Pride, submitted comments.

Family Equality Council commented that OPM should add ''legally recognized civil union/domestic partner'' throughout the form where the word ''spouse'' is used. OPM accepted this recommendation and will include consistent language throughout the form to more accurately collect information regarding legally recognized relationships.

A commenter from the public recommended updating regulations cited under the ''Authority to Request this Information'' section and amend to show that EO 9397 was amended by EO 13748. This recommendation was accepted.

A commenter from the USAF recommended administrative edits explaining the use of ''IO'' for initial only, and ''NMN'' for no middle name. This recommendation was not accepted because current instructions in the electronic application provide explanations for each acronym.

Commenters from USAF also provided recommendations to remove ''not applicable'' for Social Security number in section 4 (SSN) and to remove the requirement to list three possible contact numbers as directed in section 7 (Your Contact Information). The recommendation for removal of the ''not applicable'' option for the Social Security Number was not accepted. Not all respondents completing the questionnaire possess Social Security numbers, and therefore inclusion of the ''not applicable'' option is appropriate. The recommendation to remove the requirement to list three possible contact numbers was accepted, in part. Having access to multiple telephone numbers improves the opportunity for investigators to contact applicants as necessary throughout the investigation process. Revised guidance will be provided in section 7 to clarify that only one telephone number is required, but the other two numbers will facilitate completion of the background investigation.

Recommendations from the public and an OPM commenter included changes to section 9 (Citizenship), section 17 (Marital Status), and section 18 (Relatives) regarding the collection of information in instances of derivative U.S citizenship, and changes to the branching questions to display supporting documentation options to match claimed citizenship status. The recommendations were accepted in order to improve the accuracy of responses in these areas.

Comments were received from HHS–CMS and USAF regarding information collected in section 11 (Residence). The HHS–CMS commenter recommended adding an option to include ''other periods of activity'' instead of entering addresses multiple times. The commenter from USAF recommended adding instructions to this section for applicants not to list the same person more than one time as a reference. These recommendations were not accepted. Branching logic in e-QIP assists in the reporting of multiple periods of activity at the same location. The recommendation to limit references identified in this section may cause additional burden on applicants in the

event that they may have limited acquaintances/references to provide who can verify the period of residence.

Commenters from OPM submitted recommendations to collect additional information in two sections of the form to assist investigators in contacting required references. One recommendation is to collect landlord information for rental property reported in section 11 (Residence). The other recommendation is to collect the telephone number of former spouse(s) reported in section 17 (Marital Status). These comments were accepted. In addition, OPM intends to provide ''I don't know'' as an option for these questions.

Commenters from USAF and OPM submitted recommendations to change the instructions provided in section 12 (Education). Recommendations included modifying the requirement to list all schools to include high school, clarifying instructions to list multiple degrees/diplomas, and rewording instructions to have the applicant provide ''name of person who can verify/validate your attendance while at the school.'' These recommendations were not accepted. The need to provide all educational activity is not supported by investigative standards associated with the use of the form and would result in applicants providing more information than necessary. Branching questions in e-QIP provide guidance for applicants to list multiple degrees/diplomas as appropriate. In regard to the need to provide additional guidance for listing educational references, instructions in the current form are sufficient as they indicate that applicants should ''list a person who knew you at the school (instructor, student, etc.).''

A commenter from USAF recommended the elimination of the block in section 15 (Military History) for Service Number or the inclusion of more instructions regarding what information is to be reported in that block. OPM did not accept this recommendation at this time. Additional research is needed to determine the usefulness of information found in this field.

Recommendations were received from USAF and OPM commenters to provide additional instructions for section 16 (People Who Know You Well). The recommendations were to add verbiage instructing applicants not to list references already used as a reference elsewhere, and to provide instructions that all references should be people with whom Subject has had social contact in the last 7 years. These recommendations were not accepted as current guidance already addresses both recommendations.

Commenters from USAF submitted recommendations regarding section 18 (Relatives). Recommendations included requests to limit the collection of information pertaining to deceased family members who were foreign nationals, to add step in-laws as relatives, and to provide clarifying guidance that children are to be listed no matter their age and regardless of whether they are living at home. These recommendations were not accepted. Current branching logic with the electronic form collects only limited information pertaining to deceased relatives. The relative list as shown is section 18 provides support for investigative coverage requirements. The list may not identify all relatives that an applicant would like to list on the form. For this reason applicants are provided an additional comment field to list other relatives beyond the standard requirement.

Family Equality Council commented that asking applicants to list their mothers' maiden name is duplicative and unnecessary and recommends removal of the ''mothers' maiden name'' field in section 18 (Relatives). This comment was not accepted because the mother's maiden name is needed to conduct certain checks associated with the subject of the investigation. In addition, the reporting is not duplicative because there is an option to indicate that the name is the same as previously listed in this section.

A commenter from USAF questioned why foreign contacts related to official U.S Government business are not required to be reported, as shown in section 20B (Foreign Business, Professional Activities, and Foreign Government Contacts). This comment was not accepted because the requirement to collect contacts in relation to U.S Government business may create duplication of reporting requirements by applicants in connection to work-related Government travel. In addition, information regarding U.S Government travel can be validated through other portions of the investigative process.

Several comments were received regarding proposed changes to section 21 (Psychological and Emotional Health). Bazelon Center for Mental Health Law, Mental Health America, and Consortium of Citizens with Disabilities (CCD) recommend that OPM eliminate language suggesting that mental health treatment is relevant to a person's eligibility for a security clearance, eliminate inquiry about failure to follow treatment advice related to a mental health condition, and modify the inquiry about mental health conditions to inquire instead about concerning behaviors. These comments were not accepted because the text at issue is needed under the adjudicative guidelines for eligibility for access to classified information prescribed under E.O. 12968. The same commenters also recommended that OPM not include any language in question 21 suggesting that mental health treatment could be evidence of impaired judgment, reliability, or trustworthiness. The current proposal is already consistent with the thrust of this comment, however. The revised question already states that seeking mental health counseling will not prevent the respondent from obtaining or retaining a national security position, and that seeking wellness and recovery may favorably impact eligibility.

A commenter from OSD–CPMS asked for a description of the specific changes expected for this question. The proposed revision to section 21 will inquire as to whether the respondent has, in the last 7 years, had a mental health condition that adversely affected his or her judgment, reliability, or trustworthiness; whether the respondent has been hospitalized for any reason related to a mental health condition; whether, in the last 7 years, the respondent has chosen not to follow a prescribed course of mental health treatment; and whether a court or administrative agency has ever declared the respondent mentally incompetent. Branching questions collect information about treatment arising from circumstances that require affirmative responses, as appropriate.

Regarding section 22 (Police Record), a commenter from FAA recommended changing language found in the ''have you ever'' questions to specifically require the applicant to include all arrests. The commenter claimed that the phrasing of certain questions involving section 22 leaves room for interpretation. The comment was not accepted because the change suggested is overly broad and would require the applicant to provide information outside of the investigative requirements.

A commenter from DHS recommended that the clarifying language proposed for section 23 (Illegal Use of Drugs) is best served in the general instructions for the form. This comment was not accepted as the proposed clarifying instruction at the section is sufficient to inform applicants of the requirement to list illegal drug use consistent with Federal laws.

Comments were received from DOE–INL, HHS–CMS, OPM, and the public related to the functionality of the e-QIP application. The recommendations were not accepted because the comments do not pertain to content of the questionnaire but focus on the application. Recommendations included the need to provide additional support for the ''agency reviewer'' role in e-QIP, the rejection process, receipt of error messages, the ability to print a compact version of the questionnaire, support for digitally signing signature release forms, the ability to save partial data, and expanding characters used in certain fields. The recommendations were referred to the appropriate OPM personnel who have responsibility for the functionality of the e-QIP application.

A commenter with the USAF questioned the requirement for the respondent to provide information regarding a spouse or cohabitant without that person's written consent. OPM did not accept this comment. Information collected for the spouse/co-habitant is necessary to fulfill requirements for the level of background investigation requested on the respondent, which may include a spouse/cohabitant national agency check. Because the spouse/cohabitant is neither the subject of the investigation nor the subject of the resulting report of investigation, his or her written consent is not required by the Privacy Act or by 5 U.S.C. 9101.

A commenter with USAF requested publication of a policy that strictly prohibits the use of the SF 86 applications and information for any purposes outside of the official security clearance process. In response, OPM notes that written guidance is provided under the following sections of the instructional portion of the form: Purpose of the Form, Disclosure Information, and Privacy Act Routine Uses. The collection, maintenance, and disclosure of background investigative information are governed by the Privacy Act. Disclosure is also controlled under 5 CFR part 736 and E.O. 10450.

U.S. Office of Personnel Management.

Elaine Kaplan,

Acting Director.

[FR Doc. 2013–17240 Filed 7–17–13; 8:45 am]

BILLING CODE 6325–53–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Survivor Annuity Election for a Spouse, RI 20–63; Cover Letter Giving Information About The Cost To Elect Less Than the Maximum Survivor Annuity, RI 20–116; Cover Letter Giving Information About The Cost To Elect the Maximum Survivor Annuity, RI 20–117

AGENCY: U.S. Office of Personnel Management.

ACTION: 30-Day Notice and request for comments.

SUMMARY: The Retirement Services, Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on a revised information collection request (ICR) 3206–0174, Survivor Annuity Election for a Spouse (RI 20–63), Cover Letter Giving Information About The Cost to Elect Less Than the Maximum Survivor Annuity (RI 20–116), Cover Letter Giving Information About The Cost to Elect the Maximum Survivor Annuity (RI 20–117). As required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The information collection was previously published in the **Federal Register** on March 1, 2013, at Volume 78 FR 13914 allowing for a 60-day public comment period. No comments were received for this information collection. The purpose of this notice is to allow an additional 30 days for public comments. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of OPM, including whether the information will have practical utility;
2. Evaluate the accuracy of OPM's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

DATES: Comments are encouraged and will be accepted until August 19, 2013. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management, by email to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management, by email to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: RI 20–63 is used by an annuitant to elect a reduced annuity with a survivor annuity for his or her spouse. RI 20–116, a cover letter for RI 20–63, gives information about the cost to elect less than the maximum survivor annuity. This letter is used to supply the information that may have been requested by the annuitant about the cost of electing less than the maximum survivor annuity. RI 20–117, a cover letter for RI 20–63, provides information about the cost to elect the maximum survivor annuity. This letter may be used to ask for more information.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Survivor Annuity Election for a Spouse/Cover Letter Giving Information About The Cost to Elect Less Than the Maximum Survivor Annuity/Cover Letter Giving Information About The Cost to Elect the Maximum Survivor Annuity.

OMB Number: 3206–0174.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: RI 20–63 = 2,200; RI 20–116 & RI 20–117 = 200.

Estimated Time per Respondent: RI 20–63 = 45 min.; RI 20–116 and RI 20–117 = 10 min.

Total Burden Hours: 1,834.

U.S. Office of Personnel Management.

Elaine Kaplan,

Acting Director.

[FR Doc. 2013–17238 Filed 7–17–13; 8:45 am]

BILLING CODE 6325–38–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Securities Rule 477; OMB Control No. 3235–0550, SEC File No. 270–493.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Rule 477 (17 CFR 230.477) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) sets forth procedures for withdrawing a registration statement, including any amendments or exhibits to the registration statement. The rule provides that if an issuer intends to rely on the safe harbor contained in Securities Act Rule 155 to conduct an unregistered private offering of securities, the issuer must affirmatively state in the withdrawal application that it plans to undertake a subsequent private offering of its securities. Without this statement, the Commission would not be able to monitor a company's reliance on, and compliance with, Securities Act Rule 155(c). All information submitted to the Commission under Securities Act Rule 477 is available to the public for review. Information provided under Securities Act Rule 477 is mandatory. The information is required on occasion. We estimate that approximately 300 issuers will file Securities Act Rule 477 submissions annually at an estimated one hour per response for a total annual burden of approximately 300 hours. We estimate that 100% of the reporting burden is prepared by the issuer.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: July 12, 2013.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–17179 Filed 7–17–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 155. OMB Control No. 3235–0549, SEC File No. 270–492.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Rule 155 (17 CFR 230.155) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) provides safe harbors for a registered offering of securities following an abandoned private offering, or a private offering following an abandoned a registered offering, without integrating the registered and private offerings in either case. In connection with registered offering following an abandoned private offering, Rule 155 requires an issuer to include in any prospectus filed as a part of a registration statement disclosure regarding the abandoned private offering. Similarly, the rule requires an issuer to provide each offeree in a private offering following an abandoned registered offering with: (1) Information concerning the withdrawal of the registration statement; (2) the fact that the private offering is unregistered; and (3) the legal implications of the offering's unregistered status. All information submitted to the Commission is available to the public for review. Companies only need to satisfy the Rule 155 information requirements if they wish to take advantage of the rule's safe harbors. The Rule 155 information is required only on occasion. We estimate Rule 155 takes approximately 4 hours per response to prepare and is filed by 600 respondents annually. We estimate that 50% of the 4 hours per response (2 hours per response) is prepared by the filer for a total annual reporting burden of 1,200 hours (2 hours per response × 600 responses).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: July 12, 2013.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–17180 Filed 7–17–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69983; File Nos. SR–NYSE–2012–57; SR–NYSEMKT–2012–58]

Self-Regulatory Organizations; New York Stock Exchange LLC; NYSE MKT LLC; Order Approving Proposed Rule Changes Deleting NYSE Rules 95(c) and (d) and NYSE MKT Rules 95(c) and (d)—Equities and Related Supplementary Material

July 12, 2013.

I. Introduction

On October 26, 2012, the New York Stock Exchange LLC (''NYSE'') and NYSE MKT LLC (''NYSE MKT'') (collectively, the ''Exchanges'') each filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] proposed rule changes (''Proposals'') to delete NYSE Rules 95(c) and (d) and related Supplementary Material and NYSE MKT Rules 95(c) and (d)—Equities and related Supplementary Material, respectively. The Proposals were published for comment in the **Federal Register** on November 15, 2012.[3]

On December 21, 2012, the Commission extended the time period in which to either approve, disapprove, or to institute proceedings to determine whether to disapprove the Proposals, to February 13, 2013.[4] On February 13, 2013, the Commission instituted proceedings to determine whether to approve or disapprove the Proposals.[5] On May 14, 2013, the Commission designated July 12, 2013, as the date by which the Commission would either approve or disapprove the Proposals.[6] The Commission received no comment letters regarding the Proposals. This order approves the Proposals.

II. Background

The Exchanges propose to delete NYSE Rules 95(c) and (d) and related Supplementary Material, and NYSE MKT Rules 95(c) and (d)—Equities and related Supplementary Material concerning restrictions on the ability of a Floor broker to engage in intra-day trading.[7] Currently, NYSE Rule 95(c) states that if a Floor broker acquires a position for an account during a particular trading session, while at the same time on behalf of that same account, representing market or limit orders at the minimum variation on both sides of the market, the Floor broker may liquidate or cover the position only pursuant to a new order, which must be time-recorded upstairs and upon receipt on the Floor.[8]

NYSE Rule 95(d) defines an account as any account in which the same person or persons is directly or indirectly interested.[9] NYSE Rule 95(d) further states that a Floor broker representing an order to liquidate or cover a position, which was established during the same trading session at a time when the broker represented orders at the minimum variation on both sides of the market for the same account, must execute that liquidating or covering order before any other order on the same side of the market for that account.[10] NYSE Rule 95 Supplementary Material .20 and .30 sets forth examples applicable to NYSE Rule 95(c) and (d).

NYSE adopted Rules 95(c) and (d) and related Supplementary Material .20 and .30 in 1994 to address ''intra-day trading'' by Floor brokers.[11] Intra-day trading occurs when a market participant places orders on both sides of the market and attempts to garner the spread by buying at the bid and selling at the offer. According to NYSE, Rule 95(c) was meant to address situations where a Floor broker may have been perceived as having an advantage over other market participants, such as individual investors, because the Floor broker could trade on both sides of the market without leaving the crowd.[12] At the time the rule was adopted, according to NYSE, orders entered in the NYSE specialist's book experienced greater latency than orders handled by Floor brokers. Specifically, the NYSE specialist's book orders could not be executed until the specialist manually executed them, while Floor brokers could stand at the point of sale and trade more quickly than specialists.[13] According to NYSE, requiring the Floor broker to obtain a new liquidating order was designed to reduce the immediacy with which a Floor broker could react to changing market conditions on behalf of an intra-day trading account by requiring the Floor broker to leave the crowd in order to receive a new liquidating order.[14] The restriction was meant to ''enhance investors' confidence in the fairness and orderliness of the Exchange market.'' [15] In approving this proposal, the Commission noted that the intra-day trading strategy employed by professionals ''provide[d] the perception that public customer orders [were] being disadvantaged by the time and place advantage of intra-day traders.'' [16]

In support of its proposal to eliminate Rule 95(c) and (d), NYSE stated that incoming electronic orders are now executed automatically in microseconds, and ''book'' orders receive immediate limit order display. As a result, NYSE argued that the concern that Floor broker customers could ''crowd out small customer limit orders and delay or prevent their execution,'' [17] no longer applied in the current market structure.[18] In support of its proposal to eliminate Rule 95(c) and (d), NYSE also argued that there is no longer a competitive advantage to being on the Floor when engaging in the type of intra-day trading addressed by those rules.[19] According to NYSE, many off-Floor participants are able to synthesize market information across multiple

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 68185 (November 8, 2012), 77 FR 68188 (SR–NYSE–2012–57) (''NYSE Notice''); Release No. 68186 (November 8, 2012), 77 FR 68191 (SR–NYSEMKT–2012–58) (''NYSE MKT Notice'').

[4] *See* Securities Exchange Act Release No. 68522, 77 FR 77160 (December 31, 2012) (SR–NYSE–2012–57); Release No. 68521, 77 FR 77152 (SR–NYSEMKT–2012–58) (December 31, 2012).

[5] *See* Securities Exchange Act Release No. 68923 (February 13, 2013), 78 FR 11928 (February 20, 2013) (''Order Instituting Proceedings'').

[6] *See* Securities Exchange Act Release No. 69575, 78 FR 29406 (May 20, 2013). The Commission noted that July 13, 2013 is a Saturday and, therefore, designated July 12, 2013 as the date by which the Commission would either approve or disapprove the Proposals. *See id.*

[7] As noted by NYSE MKT, NYSE MKT Rule 95—Equities is an almost identical version of NYSE Rule 95, and was adopted at the time of acquisition of The Amex Membership Corporation by NYSE Euronext. *See* NYSE MKT Notice, 77 FR at 68191. NYSE MKT stated that the rationale for the adoption of NYSE MKT Rules 95(c)—Equities and (d)—Equities was the same as the rationale for the adoption of NYSE Rules 95(c) and (d) in 1994. *Id.* Given that the NYSE and NYSE MKT rules are virtually identical, and that the rationale for the adoption of the rules is the same, references to the text of NYSE Rule 95 in this order and the rationale for its adoption, unless otherwise noted, apply equally to NYSE MKT Rule 95—Equities.

[8] *See* NYSE Rule 95(c). NYSE Rule 95(c) further provides that all liquidating orders must be marked as ''BC'' when covering a short position, or ''SLQ'' when liquidating a long position.

[9] *See* NYSE Rule 95(d).

[10] *See* NYSE Rule 95(d).

[11] *See* Securities Exchange Act Release No. 34363 (July 13, 1994), 59 FR 36808 (July 19, 1994) (''Rule 95(c) Adopting Release'').

[12] *See* NYSE Notice, 77 FR at 68189. The NYSE states that Rule 95(c)'s requirement that a liquidating order be ''new'' effectively required that a Floor broker leave the Crowd before entering a liquidating order (selling what had been bought, for example) because there was no way for the Floor broker to receive the new order (or otherwise communicate with a customer) from the Crowd. *See id.,* 77 FR at 68189 n.6.

[13] *See* NYSE Notice, 77 FR at 68189.

[14] *See* NYSE Notice, 77 FR at 68189.

[15] Rule 95(c) Adopting Release at 36809.

[16] *Id.* at 36810.

[17] Rule 95(c) Adopting Release at 38611.

[18] *See* NYSE Notice, 77 FR 68189.

[19] *See id.*

markets faster than a Floor broker could while located on the Floor.[20] Accordingly, even if there continues to be a time and place advantage for Floor brokers by virtue of their presence on the Floor, the type of information available to Floor brokers is no longer the type of information that would provide Floor brokers with an advantage in connection with intra-day trading.[21]

As a result of these changes to its market and to overall market structure, NYSE contended that Rules 95(c) and (d) are no longer operating to place Floor brokers on equal footing with other market participants, but instead are placing them at a disadvantage in the largely automatic market that has developed in the almost twenty years since the restrictions were put in place.[22] According to NYSE, deleting Rules 95(c) and (d) and the related Supplementary Materials would place Floor brokers on a more equal footing with other market participants utilizing automatic executions.

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[23] Specifically, the Commission finds that the Proposals are consistent with Section 6(b)(5) of the Act,[24] in that they are designed to remove impediments to and perfect the mechanism for a free and open market and a national market system and, in general, to protect investors and the public interest, and Section 6(b)(8) of the Act,[25] in that they do not impose any burden on competition not necessary or appropriate in furtherance of the Act. In particular, the Commission believes that the Proposals are consistent with these provisions because they are designed to place Floor brokers on more equal footing with other market participants that enter interest electronically.

The Commission notes that the Exchanges have undergone fundamental changes since the adoption of Rules 95(c) and (d), and that these changes have largely allayed the specific concerns that these rules were designed to address. For example, given the increasing automation of the Exchanges, the Commission believes that there is a diminished concern that Floor brokers engaging in intra-day trading could ''crowd out'' public customer orders by virtue of their location on the trading Floor in relation to Designated Market Makers (formerly specialists). The Commission also notes that these rules only apply to instances where a Floor broker is representing both sides of an order at the minimum variation; to the extent that securities trading at the minimum variation are typically more liquid and have a higher trading volume, this further reduces the concern that Floor brokers could crowd out other market participants through intra-day trading.

In the Order Instituting Proceedings, the Commission expressed concern that the elimination of Rules 95(c) and (d) may not be consistent with the requirements of the Act. Specifically, given benefits conferred by the Exchanges upon Floor brokers, such as preferential parity allocation of executed shares, the Commission noted that removing the restrictions imposed by Rule 95(c) and (d) could produce unfair advantages for Floor brokers. While the Commission recognizes that the deletion of Rules 95(c) and (d) may competitively benefit Floor brokers, the Commission believes that, on balance, the Proposals are consistent with the Act because the specific concerns that these rules were originally designed to address have been largely allayed.

For the reasons stated above, the Commission finds that the Proposals are consistent with the requirements of the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[26] that the proposed rule changes (SR–NYSE–2012–57 and SR–NYSEMKT–2012–58) be, and hereby are, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–17196 Filed 7–17–13; 8:45 am]

BILLING CODE 8011–01–P

[20] *See* NYSE Notice, 77 FR at 68189.

[21] *See id.* at 68189–68190.

[22] *See id.,* 77 FR at 68190.

[23] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[24] 15 U.S.C. 78f(b)(5).

[25] 15 U.S.C. 78f(b)(8).

[26] 15 U.S.C. 78s(b)(2).

[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69980; File No. SR–NSCC–2013–09]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to the Decommissioning of NSCC's Over-the-Counter (OTC) Equity Comparison Service

July 12, 2013.

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 2, 2013, the National Securities Clearing Corporation (''NSCC'') 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 clearing agency. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to the Rules & Procedures (''Rules'') of NSCC with respect to the decommissioning of the OTC Equity Comparison Service, as well as technical changes, as more fully described below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC 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. NSCC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(i) NSCC provides a framework for the comparison and recording of transactions in eligible equity and debt securities executed on national stock exchanges and in the over-the-counter (''OTC'') market, through its Comparison and Trade Recording Operation, provided pursuant to Rule 7

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

and Procedure II of the Rules. NSCC also provides an Obligation Warehouse service pursuant to Rule 51 and Procedure IIA, under which certain transactions may be submitted for comparison that are not otherwise submitted for processing to NSCC through its other services. Over time, in efforts to promote straight-through processing, markets have assumed increasing responsibility for trade comparison (i.e., matching the buy and sell side of a securities transaction) at the point of trade, and submitting the transaction to NSCC on a ''locked-in'' basis for trade recording purposes (i.e., with the transaction details having been already compared). Today, all marketplaces interfacing with NSCC have assumed responsibility for equity comparison on their respective venues; as a result the level of over-the-counter bilateral submissions of equity transactions to the equity comparison operation has become nominal.[3] In addition, NSCC's OTC Equity Comparison service operates through legacy batch processing at the end of the day. Trade capture processes now mostly run in a real-time environment.

Rule 7 and Procedure II each contain notes stating that the comparison function offered thereunder will discontinue once each exchange and/or marketplace assumes responsibility for trade comparison.[4] Therefore, in light of the assumption of the comparison function by each marketplace and minimal volume to equity trades submissions to the OTC Equity Comparison service, NSCC proposes to decommission its OTC Equity Comparison service offering. The proposed change will not, however, impact comparison services with respect to debt transactions (which are compared through the Real Time Trade Matching (or ''RTTM'') system) or transactions submitted to the Obligation Warehouse, both of which will continue to be processed in the ordinary course. Once the OTC Equity Comparison service is decommissioned, comparison submissions for equity transactions other than those submitted to the Obligation Warehouse in accordance with Rule 51 and Procedure IIA will not be accepted by NSCC and related output will not be produced. As a result, upon the effective date of this proposal, all equity transactions submitted for processing to NSCC, other than those submitted through the Obligation Warehouse, must be compared prior to submission (i.e., at the marketplace of execution or through FINRA/NASDAQ's Automated Comparison Transaction facility (''ACT'') and submitted to NSCC on a locked-in basis for trade recording).

To facilitate this proposal, NSCC will mend Rule 7 (Comparison and Trade Recording Operation) and Procedure II (Trade Comparison and Recording Service) to reflect rules text changes consistent with the above. NSCC also proposes to make technical changes to Procedure II to: (i) delete a provision relating to the submission of municipal securities transactions by Members on behalf of non-members, and (ii) delete a provision relating to potential announcement via Important Notice of the availability of the comparison service for when-issued corporate securities.[5]

In addition Rule 5 (General Provisions) will be revised to clarify that output issued by NSCC with respect to transactions either compared by it, or recorded locked-in transactions (defined as ''Compared Contracts''), evidence valid, binding and enforceable compared transactions for purposes of the Rules. In this regard, Rule 1 (Definitions) will be revised to reflect the definition of ''Compared Contracts''.

NSCC will also: (i) Amend its fee schedule in Addendum A to the Rules to delete references to charges associated with OTC equity comparison, and (ii) make technical changes to the numbering of footnotes and certain cross-references in the Rules to reflect the changes noted above.

The effective date of the proposed rule change will be announced via an NSCC Important Notice at least 30 days in advance of its implementation.

(ii) *Statutory Basis.* The proposed rule change is consistent with the requirements of Section 17A(b)(3)(F)[6] of the Securities Exchange Act of 1934, as amended (the ''Act''), and the rules and regulations thereunder, because it provides for operational efficiencies by promoting the comparison of transactions at the point of trade, and therefore are designed to promote the prompt and accurate clearance and settlement of securities transactions.

(B) Clearing Agency's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will have any impact, or impose any burden, on competition, as usage of the OTC Equity Comparison service has declined significantly and other alternatives (including NSCC's Obligation Warehouse and the ACT facility) are available.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change have not yet been solicited or received with respect to this filing.

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–NSCC–2013–09 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NSCC–2013–09. 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

[3] During May 2013, NSCC compared an average of approximately 90 sides (an approximate average of 45 trades) for equity transactions through its OTC Comparison service. As of June 24, 2013, NSCC compared a total of 74 sides (37 trades) for the entire month of June 2013 to date.

[4] See footnotes to Rule 7 and Procedure II.

[5] With respect to the former provision, the function described is no longer in use and the provision has become obsolete, and with respect to the latter provision, a comparison service is not currently scheduled to be implemented for corporate when-issued securities and NSCC would submit a rule filing to the Commission in the event such an implementation is proposed.

[6] 15 U.S.C. 78q–1(b)(3)(F).

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 NSCC and on NSCC's Web site (*http://www.dtcc.com/legal/rule_filings/nscc/2013.php*). 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–NSCC–2013–09 and should be submitted on or before August 8, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–17178 Filed 7–17–13; 8:45 am]

BILLING CODE 8011–01–P

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69985; File No. SR–DTC–2013–04]

Self-Regulatory Organizations; the Depository Trust Company; Order Approving Proposed Rule Change in Connection With the Modifications to Receiver Authorized Delivery and Reclaim Processing Value Limits by Transaction

July 12, 2013.

I. Introduction

On May 17, 2013, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change SR–DTC–2013–04 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder.[2] The proposed rule change was published for comment in the **Federal Register** on June 5, 2013.[3] The Commission did not receive any comments on the proposed rule change. This order approves the proposed rule change.

II. Description

DTC filed the proposed rule change to modify its Rules & Procedures (''Rules''), with respect to Receiver Authorized Delivery (''RAD'') and reclaim transactions, to: (i) Lower limits against which valued Deliver Orders (''DO'') and Payment Orders (''PO'')[4] will be required to be accepted for receipt (i.e., ''matched'' for settlement); (ii) lower limits for same day reclaim transactions; and (iii) revise the process for RAD matching of stock loans and returns.

Currently DOs and POs valued in amounts above $15 million and $1 million, respectively, are subject to the RAD process, which allows receivers to review and reject transactions that they do not recognize prior to processing for delivery. In contrast, lower value DOs and POs do not require the receiver's acceptance prior to processing in accordance with DTC's Rules; instead, such transactions may be returned by the receiver in a reclaim transaction, if the receiver does not recognize the DO or PO. While both the reclaim and RAD functionalities allow receiving DTC participants (''Participants'') to exercise control over which transactions to accept, reclaims tend to create uncertainty because transactions can be returned late in the day, when the original deliverer may have limited options to respond. Because such reclaims are permitted without regard to risk management controls, the Participant that initiated the original delivery versus payment may then incur a greater settlement obligation, increasing credit and liquidity risk to that Participant and to DTC.[5]

Under the proposal, DTC is changing RAD to require Participants to match all settlement-related transactions valued greater than $7.5 million for valued DOs and $500,000 for POs, prior to processing. Matched transactions will be processed through DTC subject to risk management controls.[6] According to DTC the rule change will reduce the intraday uncertainty that may arise from reclaim transactions and any potential credit and liquidity risk from such reclaims.

DTC also proposed a further revision to RAD for stock loan and stock loan return transactions. Currently, Participants may set bilateral and global limits for transactions subject to RAD which allow transactions with settlement values that are greater than DTC's default limits, but less than the Participant's defined bilateral and/or global limits, to be passively approved.[7] Any established limits apply to all transactions with the applicable counterparties (on either a bilateral or global basis) for all transaction types subject to RAD. However, stock loan transactions (and stock loan returns) are often different from ordinary buys and sells, because stock loans are often agreed upon on a same-day basis (as opposed to T+3 settlement of purchases and sales). Taking this difference into account, in addition to the revisions described above, the rule changes will allow receiving Participants to establish bilateral and global RAD limits for stock loans and stock loan returns that are different from other transaction types.[8]

The DTC Settlement Services Guide will be revised to reflect the changes discussed above, and the effective date of the rule change will be announced

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Release No. 34–69666 (May 30, 2013), 78 FR 33876 (June 5, 2013).

[4] A Deliver Order is a book-entry movement of a particular security between two DTC participants. A Payment Order is a method for settling funds amounts related to transactions and payments not associated with a Deliver Order. The defined term ''DO'' as used in this proposed rule change filing includes all valued Deliver Orders except for Deliver Orders of: (i) Money market instruments and (ii) institutional deliveries affirmed through Omgeo, both of which are not impacted by the proposed rule change.

[5] DTC's risk management controls, including Collateral Monitor and Net Debit Cap (as defined in DTC Rule 1), are designed so that DTC can effect system-wide settlement notwithstanding the failure to settle of its largest Participant or affiliated family of Participants. Net Debit Cap limits the net debit balance a Participant can incur so that the unpaid settlement obligation of the Participant, if any, cannot exceed DTC liquidity resources. The Collateral Monitor tests that a receiver has adequate collateral to secure the amount of its net debit balance so that DTC may borrow funds to cover that amount for system-wide settlement if the Participant defaults.

[6] Each reclaim of a matched transaction that is attempted will be processed as an original instruction and be subject to risk management controls and receiver approval (the original deliverer) via RAD.

[7] A bilateral limit established by a Participant applies to transactions from a specified deliverer. A global limit established by a Participant is applied to all valued DOs and POs to the Participant not otherwise subject to a bilateral limit. Transactions passively approved under such limits may not be reclaimed.

[8] The use of a stock lending and return profile will be voluntary and, absent a profile, the Participant's transactions will be subject to RAD as applicable to ordinary DOs, including the established DTC limits as well as Participant established bilateral and global limits as described above.

through the issuance of a DTC Important Notice.

III. Discussion

Section 19(b)(2)(C) of the Act [9] directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(F) of the Act [10] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions. The Commission finds that the rule change is consistent with these requirements because it will enhance settlement certainty by increasing the number of deliveries which will be required to be approved by a receiving Participant prior to DTC processing, thereby reducing the intraday uncertainty that may arise from reclaim transactions and any potential credit and liquidity risk from such reclaims and facilitating the prompt and accurate clearance and settlement of securities transactions.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act [11] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[12] that the proposed rule change (File No. SR–DTC–2013–04) be, and hereby is, approved.[13]

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[14]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–17209 Filed 7–17–13; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(2)(C).

[10] 15 U.S.C. 78q–1(b)(3)(F).

[11] 15 U.S.C. 78q–1.

[12] 15 U.S.C. 78s(b)(2).

[13] In approving the proposed rule change, the Commission considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69981; File No. SR–CME–2013–08]

Self-Regulatory Organizations; Chicago Mercantile Exchange Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Existing CDS Credit Limits

July 12, 2013.

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 June 28, 2013, Chicago Mercantile Exchange Inc. (''CME'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II and III below, which Items have been prepared primarily by CME. CME filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(1) [4] thereunder, so that the proposal was 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 text of the proposed change is below. Italicized text indicates additions; bracketed text indicates deletions.

* * * * *

TO: Clearing Member Firms; Back Office Managers
FROM: CME Clearing
DATE: June ____, 2013
ADVISORY #: 13–XXX
SUBJECT: CDS Clearing Member Risk Limits

Effective July 15, 2013, CME Clearing will use technology automation to impose risk limits on Clearing Members for Credit Default Swap (CDS) Products. Pre-trade credit limits for CDS trade submission at the Clearing Member Firm level will now be automated. As you know, Clearing Member Firms currently have the ability to set CME-hosted credit limits for CDS on a customer account by customer account basis. With this change, CME Group will automate CDS credit limits on a Clearing Member Firm level, in addition to continuing to allow clearing member firms to maintain customer account by customer account credit limits. This is similar to the process that CME Clearing has in place for its interest rate swap offering, except this limit is based on margin.

CME Clearing will determine one maintenance margin limit for each Clearing Member Firm's customer and house origins. The utilization of this limit will be based on the same margin methodology that CME Clearing currently uses on a daily basis to calculate margin for each clearing member firm.

Please note that this limit will be a daily limit and will be based on trades executed for the current trade date only. In other words, the calculation is reset daily, and it does not reflect the exposure of any open trades prior to the current trade date.

Three hypothetical examples of the calculation of the utilization are outlined below:

Trade 1: Customer A executes a buy-protection $100M notional CDXHY20 5yr trade with Clearing Member Firm B equivalent to $5M in margin for the current trade date.

Trade 2: Customer C then executes a sell-protection $100M notional CDXHY20 5yr trade with Clearing Member Firm B for the current trade date.

Example 1: Credit Utilization—Same Trade Dates

	After trade 1	*After trade 2*
Clearing Member Firm B House Origin	*$5M*	*$0M (offsetting).*
Clearing Member Firm B Customer Origin	*5M*	*0M (offsetting).*

Now, if the 2nd trade was executed on the following trade date:

Example 2: Credit Utilization—Different Trade Dates

[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)(1).

	After trade 1	After trade 2 *
Clearing Member Firm B House Origin	$5M	$5M (not offsetting).
Clearing Member Firm B Customer Origin	5M	5M (not offsetting).

* Assuming the margin on the buy-protection trade and sell-protection trade are equivalent.

Further, using the original 2 trades above as the base case, if the 2nd trade was now buy-protection (instead of sell-protection):

Example 3: Credit Utilization—Same Trade Dates—Directional

	After trade 1	After trade 2 **
Clearing Member Firm B House Origin	$5M	$10M
Clearing Member Firm B Customer Origin	5M	10M

** Assuming the portfolio margin of trades 1 and 2 combined is 10M.

A consequence of pre-trade credit limit automation is that CDS transactions that exceed the daily limit will be rejected for clearing. We will continue to communicate via email and telephone to work with your firm if your utilizations are approaching their limits. In the future, we will provide firms with access to a separate view in RAV Manager with the ability to view your Clearing Member Firm and Origin level limits and utilizations.

If you have questions about the calculation or the specific limit in place for your Clearing Member Firm, please contact the CME Clearing Risk at clearing.riskmanagement@cmegroup.com or 312–648–3888.

For all other questions, please contact the CME Client Services Team at onboarding@cmegroup.com or 312–338–7112.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On May 7, 2012, CME implemented risk limits that apply to clearing members clearing credit default swaps in compliance with CFTC Regulation 39(h)(1).[5] CME has been enforcing those limits manually since that date.

CME now proposes to issue a notice announcing CME's intention to begin enforcing these same limits through automated means. More specifically, the CME Clearing Advisory Notice would inform clearing members and market participants that CME Clearing will, beginning on July 15, 2013, automate the manner in which it imposes clearing member risk limits for credit default swap transactions, a process that is intended to result in a more effective and efficient imposition of clearing member risk limits for credit default swap transactions. Thus, CDS transactions that exceed the limits will now be automatically rejected for clearing based on the new pre-trade credit limit automation.

The proposed rule changes that are the subject of this filing will become immediately effective. CME notes that it has also certified the proposed rule changes that are the subject of this filing to its primary regulator, the Commodity Futures Trading Commission (''CFTC'').

CME believes the proposed rule changes are consistent with the requirements of the Exchange Act including Section 17A of the Exchange Act. The proposed rule changes are designed to result in a more effective and efficient imposition of clearing member risk limits for credit default swap transactions, and as such are designed to promote the prompt and accurate clearance and settlement of securities transactions and derivatives agreements, contracts and transactions, and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency and, in general, help to protect investors and the public interest. Furthermore, the proposed change does not announce new credit limits but rather new automated means of enforcing existing credit limits. As such, the proposed amendments constitute a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing CME rule. Therefore, the proposed rule change is therefore properly filed under Section 19(b)(3)(A) and Rule 19b–4(f)(1) thereunder.

B. Self-Regulatory Organization's Statement on Burden on Competition

CME does not believe that the proposed rule change will have any impact, or impose any burden, on competition. The proposed change informs market participants that CDS transactions that exceed the currently applicable credit limits will now be automatically rejected for clearing. Imposing automated means of enforcing an existing rule should not be seen to have any competitive impact.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

CME has not solicited, and does not intend to solicit, comments regarding this proposed rule change. CME has not received any unsolicited written comments from interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has been filed pursuant to Section 19(b)(3)(A)[6] of the Act and paragraph (f)(1) of Rule 19b–4[7] thereunder and will become effective on 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

[5] The Commission believes, and CME has confirmed, that CME intended to reference CFTC Regulation 39.13(h)(1).

[6] *Supra* note 3.

[7] *Supra* note 4.

investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CME–2013–08 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CME–2013–08. 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 CME and on CME's Web site (*http://www.cmegroup.com/market-regulation/files/sec_19b-4_13-08.pdf*).

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–CME–2013–08 and should be submitted on or before August 8, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–17195 Filed 7–17–13; 8:45 am]

BILLING CODE 8011–01–P

[8] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13579 and #13580]

Illinois Disaster Number IL–00041

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 4.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Illinois (FEMA–4116–DR), dated 05/10/2013.

Incident: Severe storms, straight-line winds and flooding.

Incident Period: 04/16/2013 through 05/05/2013.

Effective Date: 07/02/2013.

Physical Loan Application Deadline Date: 07/24/2013.

EIDL Loan Application Deadline Date: 02/10/2014.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of Illinois, dated 05/10/2013 is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 07/24/2013.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2013–17250 Filed 7–17–13; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Office of Commercial Space Transportation

Waiver of 14 CFR 437.29 and 437.55(a) for Scaled Composites, LLC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of waiver.

SUMMARY: This notice concerns a waiver to Scaled Composites, LLC (Scaled) from the requirements of 14 CFR 437.29 and 437.55(a) to provide the FAA a hazard analysis that identifies, mitigates, and verifies and validates mitigation measures for hazards created by software and human error. The FAA finds that a waiver is in the public interest and will not jeopardize public health and safety, safety of property, and national security and foreign policy interests of the United States.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this waiver, contact Michael Kelly, Chief Engineer, Commercial Space Transportation, AST–004, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–7588; email: *Michael.S.Kelly@faa.gov.* For legal questions concerning this waiver, contact Sabrina Jawed, Attorney-advisor, Space Law Branch, AGC–250, Office of the Chief Counsel, Regulations Division, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8839; email: *Sabrina.Jawed@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

On May 23, 2012, the FAA's Office of Commercial Space Transportation (AST) issued Scaled Experimental Permit No. 12–007. On March 6, 2013, Scaled submitted an application to renew its experimental permit, which was to expire on May 22, 2013. In its application for renewal, Scaled included modifications to its permit to reflect changes made to SpaceShipTwo (SS2). In March of 2013, Scaled provided updates to the original hazard analysis for FAA assessment. Upon reviewing Scaled's application to renew its permit, the FAA determined that Scaled did not fully meet the requirements of 14 CFR 437.29 and 437.55(a).

Scaled did not meet these requirements because it did not identify human or software error as causing

hazards. It did not identify these errors as causing hazards on the grounds that the mitigations it had in place would prevent the hazards from occurring. Scaled emphasizes aircraft and spacecraft design redundancy, flight and maintenance procedures, and ground and flight crew training to mitigate against hazards caused by human and software errors.

Scaled employs a number of different approaches to safety derived from its aviation heritage. These include a training program, an incremental approach to flight testing, use of chase planes, use of a two-pilot model, the remoteness of its operating area and use of a winged vehicle.

The FAA's Authority and Waiver Criteria

The FAA issues experimental permits under authority granted to the Secretary of Transportation under 51 U.S.C. 50906 and delegated to the FAA Administrator. The FAA may waive an experimental permit requirement if the waiver (1) Will not jeopardize public health and safety or safety of property, (2) will not jeopardize national security and foreign policy interests of the United States, and (3) will be in the public interest. 51 U.S.C. 50905(b)(3); 14 CFR 404.5(b).

A. Scaled did not Meet the Requirements of Sections 437.29 and 437.55(a)

Section 437.29 requires an applicant for a permit to perform a hazard analysis that complies with section 437.55(a), and to provide the FAA all results of each step of the hazard analysis required by section 437.55(a). Section 437.55(a) requires an applicant to perform a hazard analysis that identifies, mitigates, and validates and verifies mitigation measures for each hazard. Scaled did not identify and describe all hazards resulting from human and software error as part of its hazard analysis, and therefore did not fully satisfy sections 437.29 and 437.55(a).

B. Operation of the SpaceShipTwo Vehicle

The FAA waives the hazard analysis requirements of sections 437.29 and 437.55(a) for Scaled for software and human error because the SS2 operation will not jeopardize public health and safety or safety of property, national security or foreign policy interests of the United States, and is in the public interest.

i. Public Health and Safety or Safety of Property

A hazard analysis serves to reduce risk to the public by limiting the possibility of a vehicle mishap. Although Scaled did not complete its hazard analysis as required by the regulations, the combination of its training program, incremental approach to flight testing, use of chase planes, and two-pilot model, as well as the limited duration of the permit and thus the waiver, the remoteness of its operating area and its use of a winged vehicle combine to allow the FAA to find that Scaled's activities will not jeopardize public health and safety or safety of property.

(1) Training Program

Although Scaled's hazard analysis under section 437.55(a) did not associate the hazards it mitigated specifically with whether they were caused by human error, Scaled's training program provides part of the basis for the FAA to find that Scaled's permitted activities will not jeopardize public health and safety or safety of property. Scaled's approach to flight safety and training derives from aviation flight testing. Scaled generally requires that its pilots have at least 1,500 hours of flight time, as well as specific experience in jet and glider aircraft. Scaled uses three different devices to train SS2 pilots and crew. The devices are (1) An SS2 simulator, (2) a WhiteKnightTwo aircraft, and (3) an aerobatic aircraft, or other g tolerance training device.

Scaled's SS2 simulator mimics the SS2 itself. The simulator duplicates the SS2 cabin layout, including the avionics, switches, controls, and windows. The simulator also provides wrap-around video simulation and sound effects. This gives the pilot depth perception and the ability to make accurate landing approaches and other maneuvers. The simulator also mimics SS2 flight dynamics. The simulator has the ability to dynamically simulate both control forces and effectiveness in all flight regimes. The control forces are dynamically linked to aerodynamics of all phases of flight. The simulator also simulates wind profiles, thrust asymmetries, and an array of failure conditions.

Using flight simulators allows for in-depth training, including the practice of critical emergency procedures, in a safer environment. Scaled's use of a flight simulator that mimics the SS2 allows Scaled's pilots to become familiar with how the SS2 operates and responds during launch, flight, and reentry, and helps improve the SS2 pilot's response time. Simulators allow pilots to gain experience flying the spacecraft. Simulators also allow pilots and crew to practice flying in emergency or other flight conditions that would be dangerous to recreate in the airspace.

Scaled also uses its flight simulator to develop mission specific trajectories, identify the envelopes of potential failure trajectories, and validate flight rules and abort procedures. The simulator models nominal and off-nominal flight environment and incorporates reasonably foreseeable failure scenarios. Scaled updates the simulations based on data obtained from actual flights to improve the simulator's fidelity and accuracy. Scaled runs its simulator 1.4 times faster than actual flight in order to ensure that pilots and ground crew are trained to respond quickly to various flight conditions and anomalies. By practicing various nominal and non-nominal scenarios in the SS2 simulator, pilots are able to rehearse how to operate the SS2. This training also enhances the speed and reaction time of the crew, and allows the crew to practice working together to run various procedures, such as going through the checklist. Continuous updates ensure that the simulator provides the most accurate modeling of the way the vehicle will perform at various altitudes and attitudes, so that the crew can best experience how the SS2 will react during flight.

SS2's flight crew also uses WhiteKnightTwo for training because it replicates SS2's flight profile. When the WhiteKnightTwo's spoil-flaps are deployed, it has a similar flight path and descent profile to the SS2. SS2 pilots fly at least three WhiteKnightTwo flights simulating SS2 approaches prior to an SS2 flight. Flight crew are able to fly in the WhiteKnightTwo in order to practice what it will be like when they are flying the SS2.

Use of the WhiteKnightTwo builds upon the simulator training. While the simulator mimics flight conditions in most cases, it is not a multi-axis simulator, which means it will not pitch in a vertical motion and not always mimic real flight conditions. The WhiteKnightTwo is able to replicate the full flight and the actual feel of flight in the SS2. Additional training in the WhiteKnightTwo, which has a cockpit that mimics the SS2, allows pilots and crew to experience more accurate flight conditions than the simulator in some instances.

Lastly, as part of ongoing g tolerance training, the SS2 crew completes an aerobatic training course that covers g tolerance, motion sickness, and unusual

attitudes. This training is performed in a small aerobatic aircraft. SS2 crew may also train in a g tolerance training device, such as a centrifuge.

To the extent that physical human vulnerability plays a role in safety, Scaled's coverage of g tolerance, motion sickness and unusual attitudes helps safety on two fronts. First, it trains a pilot to recognize the onset of, experience, and recover from the anticipated stresses of launch. Also, it allows an operator to determine that a pilot remains functional while withstanding the anticipated stresses of the launch.

(2) Incremental Approach to Flight Testing

Another important factor in the FAA's ability to grant this waiver is Scaled's incremental approach to flight testing. Scaled's test program is divided into three phases: 1) Subsonic glide flights, 2) powered flight to maximum altitude, and 3) repeatability demonstrations.

Scaled employs an incremental approach to flight testing, and flight tests in three different phases. Before moving to a new phase, Scaled ensures that it has mitigated or eliminated the hazards it observed during the previous phase. By changing only a limited number of variables at a time, Scaled is able to identify which variables result in hazards, isolate those variables, and take steps to mitigate or eliminate the hazards. Scaled then runs additional tests until it is satisfied that it has eliminated or mitigated the hazard.

During phase one, WhiteKnightTwo releases SS2 to allow Scaled to observe its actions during glide flight. During phase two, WhiteKnightTwo releases SS2, and SS2 performs rocket-powered flight. Phase two ends with a successful demonstration of the maximum altitude performance of the vehicle. Phase three demonstrates that SS2 can repeatedly perform proficiently during rocket-powered flight. For each new flight, Scaled varies only one parameter at a time, especially in the case of critical components where a failure could quickly take the aircraft from a safe flight condition to a potentially hazardous one. For example, Scaled tests the feathering operation of the vehicle during each phase. To do this, Scaled feathers and defeathers the vehicle in flight at varying Mach numbers and altitudes. Test pilots will evaluate the handling of the vehicle in both the feathered and unfeathered configuration at each Mach number and altitude.

Incremental testing ensures that Scaled is able to study the reactions of the vehicle during different stages of flight. By moving from a less complex flight (glide) to a more complex flight (rocket-powered), Scaled is able to isolate and identify variables that cause hazards, address those hazards, and re-test to ensure that the mitigations were effective.

(3) Use of Chase Planes and Two-Pilot Model

Scaled uses two chase planes and two pilots for SS2's flight. Scaled's use of two chase planes and two pilots allows Scaled to identify problems when the system itself fails to disclose them, and provides redundancy. The chase planes are able to monitor the WhiteKnightTwo and the SS2, so that if there is a computer failure and the pilot would not otherwise know of an external failure, such as the failure of the landing gear to lower, the chase planes are able to provide that information. Upon reentry of SS2, Scaled uses WhiteKnightTwo as an additional chase plane.

The pilots of chase planes look for any external abnormalities in SS2. If an abnormality is identified, the chase plane is able to communicate the issue to both the ground crew and the pilots onboard SS2. If the communications and telemetry systems stop functioning in the carrier aircraft, the chase planes can communicate with the carrier aircraft by radio. The radio operates on a separate frequency than the telemetry system on the SS2 and WhiteKnightTwo. Also, if the SS2 multifunctional displays and the independent attitude/air data computer and display become inoperable during gliding flight, the chase planes can lead the vehicle to landing if necessary.

The chase planes provide additional situational awareness for pilots and crew on the carrier aircraft and SS2, and ground crew. The use of two chase planes is a safety measure that eliminates or mitigates potential hazards. The chase planes are able to identify anomalies and communicate them directly to the SS2 or carrier airplane pilots. They serve as an extra set of eyes to ensure that any unplanned events that do occur are identified and addressed as quickly as possible.

Scaled uses two rather than one pilot because if one pilot becomes incapacitated, the other pilot can fly the spacecraft. In both emergencies and nominal flight operations, both pilots are able to work together to enhance situational awareness. For example, each pilot is able to verify with the other that the checklist is correct and the spacecraft is functioning normally. Pilot error on the part of one pilot can be corrected by the other, and in situations where a decision must be made, two fully-qualified pilots can consult quickly. The use of two pilots may eliminate or mitigate potential hazards.

(4) Duration

Because an experimental permit is by design a brief authorization of one year, minimal levels of residual error and thus risk may accumulate, but not at levels that would jeopardize public health and safety. Without a full system safety analysis of software and human error, error may accumulate over time. For example, latent software and hardware incompatibilities may develop with changes and updates. Although such error could build over time, it would not within the time period of a permit. Additionally, the one-year duration of the permit means that this waiver will also be of brief duration, and there is a reduced likelihood of employee turnover and any attendant loss of corporate memory at Scaled in that time.

(5) Remoteness of Operating Area and Controllability of Vehicle

Finally, Scaled's operating area is remote enough that, were it to experience a catastrophic failure, it would not jeopardize public health and safety. Additionally, the SS2 is a winged vehicle, and therefore maneuverable.

Scaled is conducting launches of SS2 in a very remote location. The southern end of the operating area where Scaled plans to conduct its test flights has a population density of about 17 people per square mile. The area Scaled plans to use for the rocket-powered ascent phase of flight includes approximately 450 people in a 140 square mile area, or just over three people per square mile. The operating area for SS2 is also very large at approximately 5,000 square miles, in order to ensure that SS2 operations are contained within a sparsely populated area.

Additionally, SS2 is a winged vehicle. Scaled's pilots are able to control and maneuver SS2 to ensure it stays away from populated areas, including the exclusion zones inside the operating area. The pilots can ensure that the SS2 operates only in the areas with the sparsest population.

Scaled did not fully comply with the hazard analysis required by section 437.55(a), but the FAA finds that Scaled's operations will not jeopardize public health and safety or safety of property because of the combination of its flight test program, training, incremental flight testing, chase planes, two pilots, and the remoteness of its operating area.

ii. National Security and Foreign Policy Implications

This waiver does not have an impact on any national security or foreign policy interests of the United States. Scaled's launch operations will take place within the United States and within a specifically defined area that is used for military operations.

iii. Public Interest

The FAA finds that granting this waiver is in the public interest. The Commercial Space Launch Act provides that the United States should encourage private sector launches, reentries, and associated services. Additionally, Congress established Chapter 509 to promote economic growth and entrepreneurial activity through use of the space environment for peaceful purposes.

This waiver is consistent with the public interest goals of Chapter 509. The SS2 test flights will stimulate economic growth, spur technological developments and create aerospace business opportunities such as carrying scientific payloads and space tourists on trips to the edge of space and back. The FAA finds that granting this waiver is in the public interest because the SS2 flights further the purposes Congress articulated for Chapter 509.

Issued in Washington, DC on July 9, 2013.

George C. Nield,

Associate Administrator for Commercial Space Transportation.

[FR Doc. 2013–17169 Filed 7–17–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Membership Availability in the National Parks Overflights Advisory Group Aviation Rulemaking Committee

ACTION: Notice.

SUMMARY: The National Park Service (NPS) and the Federal Aviation Administration (FAA), as required by the National Parks Air Tour Management Act of 2000, established the National Parks Overflights Advisory Group (NPOAG) in March 2001. The NPOAG was formed to provide continuing advice and counsel with respect to commercial air tour operations over and near national parks. This notice informs the public of two vacancies on the NPOAG [now the NPOAG Aviation Rulemaking Committee (ARC)] for members representing commercial air tour operators (one vacancy) and environmental concerns (one vacancy) and invites interested persons to apply to fill the vacancies.

DATES: Persons interested in serving on the NPOAG ARC should contact Mr. Keith Lusk in writing and postmarked or emailed on or before August 16, 2013.

FOR FURTHER INFORMATION CONTACT: Keith Lusk, AWP–1SP, Special Programs Staff, Federal Aviation Administration, Western-Pacific Region Headquarters, P.O. Box 92007, Los Angeles, CA 90009–2007, telephone: (310) 725–3808, email: *Keith.Lusk@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The National Parks Air Tour Management Act of 2000 (the Act) was enacted on April 5, 2000, as Public Law 106–181. The Act required the establishment of the advisory group within 1 year after its enactment. The advisory group was established in March 2001, and is comprised of a balanced group of representatives of general aviation, commercial air tour operations, environmental concerns, and Native American tribes. The Administrator of the FAA and the Director of NPS (or their designees) serve as ex officio members of the group. Representatives of the Administrator and Director serve alternating 1-year terms as chairman of the advisory group.

The advisory group provides ''advice, information, and recommendations to the Administrator and the Director—

(1) On the implementation of this title [the Act] and the amendments made by this title;

(2) On commonly accepted quiet aircraft technology for use in commercial air tour operations over a national park or tribal lands, which will receive preferential treatment in a given air tour management plan;

(3) On other measures that might be taken to accommodate the interests of visitors to national parks; and

(4) At the request of the Administrator and the Director, safety, environmental, and other issues related to commercial air tour operations over a national park or tribal lands.''

Members of the advisory group may be allowed certain travel expenses as authorized by section 5703 of Title 5, United States Code, for intermittent Government service.

By FAA Order No. 1110–138, signed by the FAA Administrator on October 10, 2003, the NPOAG became an Aviation Rulemaking Committee (ARC). FAA Order No. 1110–138, was amended and became effective as FAA Order No. 1110–138A, on January 20, 2006.

The current NPOAG ARC is made up of one member representing general aviation, three members representing the commercial air tour industry, four members representing environmental concerns, and two members representing Native American tribal concerns. Current members of the NPOAG ARC are: Heidi Williams representing general aviation; Alan Stephen, and Mark Francis representing commercial air tour concerns; Michael Sutton, Gregory Miller, and Dick Hingson representing environmental interests; Rory Majenty and Martin Begaye, representing Native American tribes.

In order to retain balance within the NPOAG ARC, the FAA and NPS invite persons interested in serving on the ARC to represent commercial air tour operators and environmental concerns to contact Mr. Keith Lusk (contact information is written above in **FOR FURTHER INFORMATION CONTACT**).

Requests to serve on the ARC must be made to Mr. Lusk in writing and postmarked or emailed on or before August 16, 2013. The request should indicate whether or not you are a member of an association or group representing commercial air tours or environmental concerns, or have another affiliation with issues relating to aircraft flights over national parks. The request should also state what expertise you would bring to the NPOAG ARC as related to the vacancy you are seeking to fill (e.g., environmental concerns). The term of service for NPOAG ARC members is 3 years.

On June 18, 2010, President Obama signed a Presidential Memorandum directing agencies in the Executive Branch not to appoint or re-appoint federally registered lobbyists to advisory committees and other boards and commissions. Therefore, before appointing an applicant to serve on the NPOAG, the FAA and NPS will require the prospective candidate to certify that they are not a federally registered lobbyist.

Issued in Hawthorne, CA, on July 11, 2013.

Keith Lusk,

Program Manager, Special Programs Staff, Western-Pacific Region.

[FR Doc. 2013–17254 Filed 7–17–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2013–0067]

Hazardous Materials: Improving the Safety of Railroad Transportation of Hazardous Materials

AGENCY: Pipeline and Hazardous Materials, Safety Administration (PHMSA), Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Announcement of public meeting and establishment of public docket.

SUMMARY: FRA and PHMSA invite interested persons to participate in a public meeting addressing the transportation of hazardous materials by rail. FRA and PHMSA are undertaking a comprehensive review of operational factors that affect the safety of the transportation of hazardous materials by rail and are seeking input from stakeholders and interested parties.

DATES: The public meeting is scheduled for August 27–28, 2013, from 8:30 a.m. until 4:30 p.m.

ADDRESSES: The public meeting will be held in the Oklahoma Room in the DOT Conference Center, 1200 New Jersey Avenue SE., Washington, DC 20590.

In order to ensure that all interested parties are provided ample opportunity to speak at the meeting, any person wishing to present an oral statement should notify Mr. Kurt Eichenlaub, Railroad Safety Specialist, Hazardous Materials Division, Office of Safety Assurance and Compliance, FRA, at least 4 business days prior to the date of the public meeting. Mr. Eichenlaub can be reached at (202) 493–6050 or *Kurt.Eichenlaub@dot.gov.* To request special assistance or services for persons with disabilities, please contact Mr. Eichenlaub as soon as possible.

FRA will make a teleconference line available for any interested party who wishes to attend the meeting by phone. Anyone interested in attending by phone should contact Mr. Eichenlaub prior to the meeting to obtain a conference call telephone number.

Interested parties are also invited to participate in these proceedings by submitting written views, data, or comments. All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–6478.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Kurt Eichenlaub, Railroad Safety Specialist, FRA, 1200 New Jersey Avenue SE., Mailstop 25, Washington, DC 20590, (202) 493–6050, *Kurt.Eichenlaub@dot.gov;* or Mr. Karl Alexy, Staff Director, Hazardous Materials Division, FRA, 1200 New Jersey Avenue SE., Mailstop 25, Washington, DC 20590, (202) 493–6245 or *Karl.Alexy@dot.gov.*

SUPPLEMENTARY INFORMATION: The Secretary of Transportation (Secretary) has authority over all areas of railroad safety (49 U.S.C. 20101 *et seq.*) and has delegated this authority to FRA. 49 CFR 1.89(a) through (q). The Federal hazardous materials transportation laws, 49 U.S.C. 5101 et seq., and the Federal Hazardous Materials Regulations.

(HMR; Title 49 Code of Federal Regulations (CFR) Parts 171–180) govern the safe, efficient, and secure transportation of hazardous materials in commerce. PHMSA administers the HMR, and FRA consults directly with PHMSA on regulatory matters that affect the transportation of hazardous materials by rail. FRA is delegated responsibility to carry out the functions vested in the Secretary of Transportation with regard to the transportation or shipment of hazardous materials by railroad. 49 CFR 1.89(j).

In an effort to continually improve the agencies' hazardous materials safety program, FRA and PHMSA are currently conducting a comprehensive review of operational factors that affect the safety of the transportation of hazardous materials by rail. The agencies invite all stakeholders and interested parties to participate in this comprehensive review. We will consider all relevant comments, data, and other input presented at this public meeting. As noted above, FRA has established a public docket (Docket No. FRA–2013–0067) to provide interested parties with a central location to both send and review relevant information concerning the transportation of hazardous materials by rail. An agenda outlining the scope of the meeting will be posted in the public docket at least 30 days prior to the meeting. FRA and PHMSA encourage meeting participants to focus their discussion at the meeting on the topics identified in the agenda.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

Robert C. Lauby,

Deputy Associate Administrator for Regulatory and Legislative Operations.

[FR Doc. 2013–17201 Filed 7–17–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 55 (Sub-No. 727X)]

CSX Transportation, Inc.—Abandonment Exemption—in Washington County, MD

On June 28, 2013, CSX Transportation, Inc. (CSXT) filed with the Surface Transportation Board a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 for CSXT to abandon approximately 0.76 miles of its railroad line known as the Hagerstown Industrial Track, between milepost BAW 19.44 and milepost BAW 18.68 in Hagerstown-St. James, Washington County, Md. The line traverses United States Postal Service Zip Code 21740. There are no stations on the line.[1]

CSXT states that, based on information in its possession, the line does not contain Federally granted rights-of-way. Any documentation in CSXT's possession will be made available to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979).

By issuing this notice, the Board is instituting an exemption proceeding

[1] CSXT states that there is only one shipper on the line, Conservit, Inc. (Conservit). According to CSXT, upon a grant of abandonment authority, CSXT plans to reclassify the line as spur track and sell it to Conservit, which plans to improve the track and redevelop the site. CSXT states that it will continue to meet Conservit's common carrier requirements.

pursuant to 49 U.S.C. 10502(b). A final decision will be issued by October 16, 2013.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $1,600 filing fee. *See* 49 C.F.R. 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for interim trail use/rail banking under 49 CFR 1152.29 will be due no later than August 7, 2013. Each trail use request must be accompanied by a $250 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to Docket No. AB 55 (Sub-No. 727X) and must be sent to: (1) Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001; and (2) Melanie Yasbin, Law Offices of Louis E. Gitomer, LLC, 600 Baltimore Ave., Suite 301, Towson, MD 21204. Replies to the petition are due on or before August 7, 2013.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0238 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis (OEA) at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by OEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact OEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA generally will be within 30 days of its service.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: July 12, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Raina S. White,

Clearance Clerk.

[FR Doc. 2013–17258 Filed 7–17–13; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35748]

City of Pickens, S.C. and City of Easley, S.C.—Acquisition Exemption—Pickens Railway Company

The City of Pickens, S.C., and the City of Easley, S.C. (collectively, the Cities or Petitioners), both noncarrier political subdivisions of the State of South Carolina, have filed a verified notice of exemption under 49 CFR 1150.31 to acquire from Pickens Railway Company (Pickens Railway) approximately 8.5 miles of railroad right-of-way between milepost 0.0, at or near Pickens, and milepost 8.5, at or near Easley.[1]

In a related prior transaction, Pickens Railway filed a verified notice of exemption in September 2012 to abandon the Line,[2] and the Board issued a Notice of Interim Trail Use or Abandonment (NITU) under section 8(d) of the National Trails System Act, 16 U.S.C. 1247(d), and 49 CFR 1152.29 to permit the Cities to negotiate with Pickens Railway to acquire the Line for use as a trail (rail banking/interim trail use).[3] On July 2, 2013, Petitioners filed, in the abandonment docket, a notice that a rail banking/interim trail use agreement had been reached with Pickens Railway.[4]

Here, Petitioners state that they have entered into an agreement with Pickens Railway in which Pickens Railway will convey its ownership interests in the rail line corridor, including the ''residual common carrier status'' (*i.e.,* the legal right to reactivate common carrier service), to the Cities. This conveyance will exclude the track and most of the track material, which Pickens Railway will retain the right to salvage. Thus, Petitioners assert that, as a result of this acquisition transaction combined with the rail banking/interim trail use agreement in the abandonment docket, the Cities will hold all of the non-track rail assets that constitute the Line and will acquire ownership of and responsibility for the corridor as trail sponsor, including the common carrier reactivation right.

The transaction is expected to be consummated on or after August 1, 2013 (30 days after the notice of exemption was filed).

The Cities certify that the projected annual revenues as a result of this transaction will not exceed $5 million or exceed those that would qualify either city, or both, as a Class III rail carrier.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than July 25, 2013 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35748, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, a copy must be served on William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Ave. NW., Suite 300, Washington, DC 20037.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: July 12, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Raina S. White,

Clearance Clerk.

[FR Doc. 2013–17262 Filed 7–17–13; 8:45 am]

BILLING CODE 4915–01–P

[1] The rail line between milepost 0.0 and milepost 8.5 will be referred to as the Line. The Cities are acquiring the Line's right-of-way, but not its track or track material.

[2] *See Pickens Ry.—Aban. Exemption—in Pickens Cnty., S.C.,* AB 1097X (STB served Sept. 27, 2012).

[3] *See Pickens Ry.—Aban. Exemption—in Pickens Cnty., S.C.,* AB 1097X (STB served Oct. 26, 2012). By decision served on May 17, 2013, the NITU negotiating period was extended until October 21, 2013. A rail-banked line is subject to future reactivation of rail service. *See* 49 CFR 1152.29(a)(3), (c)(2), (d)(2).

[4] *See* Notice of Interim Trail Use Agreement, *Pickens Ry.—Aban. Exemption—in Pickens Cnty., S.C.,* AB 1097X (filed July 2, 2013).

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

Financial Crimes Enforcement Network; Comment Request; Renewal Without Change—Administrative Rulings in Accordance With the Paperwork Reduction Act

AGENCY: Financial Crimes Enforcement Network, Department of the Treasury.

ACTION: Request for comments.

SUMMARY: The Office of Management and Budget (''OMB'') Control Number 1506–0050 approval for, Financial

Crimes Enforcement Network (''FinCEN'') Administrative Rulings, expires October 31, 2013. FinCEN is proposing to renew without change these procedural requirements. This request for comment is being made pursuant to the Paperwork Reduction Act (''PRA'') of 1995, Public Law 104–13, 44 U.S.C. 3506(c)(2)(A).

DATES: Written comments are welcome and must be received on or before September 16, 2013.

ADDRESSES: Written comments should be submitted to: Policy Division, Financial Crimes Enforcement Network, Department of the Treasury, P.O. Box 39, Vienna, Virginia 22183, Attention: PRA Comments—1506–0050. Comments also may be submitted by electronic mail to the following Internet address: *regcomments@fincen.gov,* again, with a caption in the body of the text, ''Attention: PRA Comments—1506–0050.''

Inspection of Comments. Public comments received in response to a ''Notice and Request for Comments'' will be made available for review as soon as possible but no earlier than five business days after the close of the comment period. This delay is to insure submissions sent through the U.S. Postal Service are included in the posting. Comments received may be inspected, between 10 a.m. and 4 p.m., in the FinCEN reading room in Vienna, VA. Persons wishing to inspect the comments submitted must request an appointment with the Disclosure Officer by telephoning (703) 905–5034 (not a toll free call).

FOR FURTHER INFORMATION CONTACT: The FinCEN Regulatory Helpline at (800) 949–2732, select option 6.

SUPPLEMENTARY INFORMATION:

Title: Administrative Rulings (31 CFR 1010.711–717).

OMB Number: 1506–0050.

Abstract: The statute generally referred to as the ''Bank Secrecy Act,'' Titles I and II of Public Law 91–508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5332, authorizes the Secretary of the Treasury (Secretary), *inter alia,* to require financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory investigations or proceedings, or in the conduct of intelligence or counter-intelligence activities, to protect against international terrorism, and to implement counter-money laundering programs and compliance procedures.[1] Regulations implementing Title II of the Bank Secrecy Act (''BSA'') appear at 31 CFR Chapter X. The authority of the Secretary to administer the BSA has been delegated to the Director of FinCEN.

Current action: This is a renewal without change of a currently approved PRA burden.

Summary of proposed action: FinCEN proposes renewing the PRA burden currently included in OMB Control Number 1506–0050. The sections under this control number address: (a) How to submit a ruling request (1010.711), (b) how non-conforming requests are handled (1010.712), (c) how oral communications are treated (1010.713), (d) how rulings are issued (1010.715), (e) how rulings are modified or rescinded (1010.716), and (f) how information in connection with a ruling may be disclosed (1010.717). Effective September 2009, all administrative rulings with precedential value are published on the FinCEN Web site and may be reviewed at *http://www.fincen.gov/statutes_regs/rulings/.*

Burden: The estimated number of responses (request for a ruling) is 40 annually, with a burden of one hour per submission, for a total annual burden of 40 hours.

Type of Review: Renewal of currently approved PRA burden.

Affected Public: Businesses or other for-profit and non-profit institutions.

Frequency: N/A.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Records required to be retained pursuant to the BSA must be retained for five years.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: July 10, 2013.

Jennifer Shasky Calvery,

Director, Financial Crimes Enforcement Network.

[FR Doc. 2013–17075 Filed 7–17–13; 8:45 am]

BILLING CODE 4810–02–P

[1] Language expanding the scope of the Bank Secrecy Act to intelligence or counter-intelligence activities to protect against international terrorism was added by Section 358 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001, Public Law 107–56.

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

Financial Crimes Enforcement Network; Proposed Renewal Without Change; Comment Request; Imposition of Special Measure Against Commercial Bank of Syria, Including its Subsidiary Syrian Lebanese Commercial Bank, as a Financial Institution of Primary Money Laundering Concern

AGENCY: Financial Crimes Enforcement Network, Department of the Treasury.

ACTION: Request for comments.

SUMMARY: As part of our continuing effort to reduce paperwork and respondent burden, we invite comment on a proposed renewal, without change, to information collection requirements found in existing regulations imposing a special measure against the Commercial Bank of Syria, including its subsidiary Syrian Lebanese Commercial Bank, as a financial institution of primary money laundering concern. This request for comments is being made pursuant to the Paperwork Reduction Act of 1995 (''PRA''), Public Law 104–13, 44 U.S.C. 3506(c)(2)(A).

DATES: Written comments are welcome and must be received on or before September 16, 2013.

ADDRESSES: Written comments should be submitted to: Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183, Attention: Comment Request; Imposition of Special Measure against Commercial Bank of Syria. Comments also may be submitted by electronic mail to the following Internet address: *regcomments@fincen.gov,* again with a caption, in the body of the text, ''Attention: Comment Request; Imposition of Special Measure against Commercial Bank of Syria.''

Inspection of comments: Comments may be inspected, between 10 a.m. and 4 p.m., in the FinCEN reading room in Vienna, VA. Persons wishing to inspect the comments submitted must request an appointment with the Disclosure

Officer by telephoning (703) 905–5034 (not a toll free call).

FOR FURTHER INFORMATION CONTACT: Financial Crimes Enforcement Network, Policy Division at (800) 949–2732. Select option 6.

SUPPLEMENTARY INFORMATION: *Abstract:* The Director of the Financial Crimes Enforcement Network (''FinCEN'') is the delegated administrator of the Bank Secrecy Act (''BSA''). The Act authorizes the Director to issue regulations to require all financial institutions defined as such pursuant to the Act to maintain or file certain reports or records that have been determined to have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, or in the conduct of intelligence or counter-intelligence activities, including analysis, to protect against international terrorism.[1] Regulations implementing section 5318A of title 31, United States Code can be found in part at 31 CFR 1010.653. In general, the regulations require financial institutions, as defined at 31 U.S.C. 5312(a)(2) and 31 CFR 1010.100, to establish, document, and maintain programs as an aid in protecting and securing the U.S. financial system.

Title: Imposition of Special Measure against Commercial Bank of Syria, Including its Subsidiary Syrian Lebanese Commercial Bank, as a Financial Institution of Primary Money Laundering Concern.

Office of Management and Budget Control Number: 1506–0036.

Abstract: FinCEN is issuing this notice to renew the imposition of a special measure against the Commercial Bank of Syria, including its subsidiary Syrian Lebanese Commercial Bank, as a financial institution of primary money laundering concern, pursuant to the authority contained in 31 U.S.C. 5318A.

Current Action: Renewal without change to existing regulations.

Type of Review: Extension of a currently approved information collection.

Affected Public: Businesses and other for-profit institutions.

Burden: Estimated Number of Respondents: 5000.

Estimated Number of Responses: 5000.

Estimated Number of Hours: 5000. (Estimated at one hour per respondent).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget (''OMB''). Records required to be retained under the BSA must be retained for five years. Generally, information collected pursuant to the BSA is confidential but may be shared as provided by law with regulatory and law enforcement authorities.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected: (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information.

Dated: July 10, 2013.

Jennifer Shasky Calvery,

Director, Financial Crimes Enforcement Network.

[FR Doc. 2013–17077 Filed 7–17–13; 8:45 am]

BILLING CODE 4810–02–P

[1] Public Law 91–508, as amended and codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959 and 31 U.S.C. 5311–5332. Language expanding the scope of the Bank Secrecy Act to intelligence or counter-intelligence activities to protect against international terrorism was added by section 358 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001, Public Law 107–56.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2007–48

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning the rotable spare parts safe harbor method.

DATES: Written comments should be received on or before September 16, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of revenue procedures should be directed to Katherine Dean, at Internal Revenue Service, room 6242, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Katherine.b.dean@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Rotable Spare Parts Safe Harbor Method.

OMB Number: 1545–2070.

Revenue Procedure Number: Rev. Proc. 2007–48.

Abstract: The information for which the agency is requesting to collect will support a taxpayer's claim for eligibility to use the safe harbor method of accounting for rotable spare parts provided in the proposed revenue procedures. The information will be submitted as a supporting schedule for the Form 3115, Application for Change in Accounting Method.

Current Actions: There are no changes being made to the revenue procedures at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 300.

Estimated Time per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 75.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of

public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 8, 2013.

Yvette Lawrence,

OMB Reports Clearance Officer.

[FR Doc. 2013–17193 Filed 7–17–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2004–29

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning statistical sampling in § 274 Context.

DATES: Written comments should be received on or before September 16, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Katherine Dean, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington DC 20224, or through the Internet, at *Katherine.b.dean@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Statistical Sampling in § 274 Contest.

OMB Number: 1545–1847.

Revenue Procedure Number: Revenue Procedure 2004–29.

Abstract: Revenue Procedure 2004–29 prescribes the statistical sampling methodology by which taxpayers under examination, making claims for refunds or filing original returns may establish the amounts of substantiated meal and entertainment expenses that are excepted from the 50% deduction disallowance of § 274(n)(1) under § 274(n)(2)(A), (C), (D) or (E).

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 400.

Estimated Annual Average Time per Respondent: 8 hours.

Estimated Total Annual Hours: 3,200.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 8, 2013.

Yvette Lawrence,

OMB Reports Clearance Officer.

[FR Doc. 2013–17199 Filed 7–17–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing, qualified severance of a trust for generation-skipping transfer (GST) tax purposes.

DATES: Written comments should be received on or before September 16, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to, Yvette Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Katherine Dean, at Internal Revenue Service, Room 6242, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Katherine.b.dean@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Qualified Severance of a Trust for Generation-Skipping Transfer (GST) Tax Purposes.

OMB Number: 1545–1902.

Regulation Project Number: REG–26–2642.6, T.D.9348.

Abstract: This information is required by the IRS for qualified severances. It will be used to identify the trusts being severed and the new trusts created upon severance.

Current Actions: This NPRM has been finalized; there is no change to the existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 25,000.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 12,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 8, 2013.

Yvette Lawrence,

OMB Reports Clearance Officer.

[FR Doc. 2013–17198 Filed 7–17–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request on Information Collection Tools Relating to the Offshore Voluntary Disclosure Program (OVDP)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning the Offshore Voluntary Disclosure Program (OVDP).

DATES: Written comments should be received on or before September 16, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224. Please send separate comments for each specific information collection listed below. You must reference the information collection's title, form number, reporting or record-keeping requirement number, and OMB number (if any) in your comment.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the collection tools should be directed to LaNita Van Dyke, Internal Revenue Service, Room 6511, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202)622–3215, or through the internet at *Lanita.Vandyke@irs.gov.*

SUPPLEMENTARY INFORMATION: Currently, the IRS is seeking comments concerning the following information collection tools, reporting, and record-keeping requirements:

Title: Offshore Voluntary Disclosure Program (OVDP).

OMB Number: 1545–2241.

Form Number(s): 14029, 14438, 14452, 14453, 14454, 14457, and 14467.

Abstract: The IRS is offering people with undisclosed income from offshore accounts an opportunity to get current with their tax returns. Taxpayers with undisclosed foreign accounts or entities should make a voluntary disclosure because it enables them to become compliant, avoid substantial civil penalties and generally eliminate the risk of criminal prosecution. The objective is to bring taxpayers that have used undisclosed foreign accounts and undisclosed foreign entities to avoid or evade tax into compliance with United States tax laws.

Current Actions: There are no changes to the burden estimates previously approved by OMB.

Type of Review: Extension of currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Responses: 456,000.

Estimated Time per Respondent: 1 hour 35 mins.

Estimated Total Annual Burden Hours: 726,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 10, 2013.

Allan Hopkins,

IRS Reports Clearance Officer.

[FR Doc. 2013–17203 Filed 7–17–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Biomedical Laboratory Research and Development Service, Special Emphasis Panel—Amyotrophic Lateral Sclerosis (ALS) Brain Bank, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App., that the Special Emphasis Panel—ALS Brain Bank will meet on July 23, 2013, from 9 a.m. until 4 p.m. in Building 57, Room 0BA–049 Diagnostics, at the Southern Arizona VA Healthcare System, 3601 South 6th Avenue,

Tucson, Arizona. The meeting will convene at 9 a.m. and end at 4 p.m. The panel meeting will be open to the public for approximately one-half hour at the start of the meeting to discuss the general status of the project. The remaining portion of the meeting will be closed to the public for the review, discussion, and evaluation of the research project to be performed for VA. The closed portion of the meeting involves discussion, examination, reference to staff and consultant critiques of the research proposal. As provided by subsection 10(d) of Public Law 92–463, as amended, closing portions of a panel meeting is in accordance with 5 U.S.C., 552b(c) (6) and (9)(B).

The purpose of this Special Emphasis Panel is to review the VA ALS Brain Bank for its continued funding. The VA ALS Brain Bank is a project of high programmatic importance to VA. The Special Emphasis Panel will review activities related to the ALS Brain Bank including the significance of the bank, the approaches used for operation of the bank, and other key areas such as innovation, environment, feasibility, and protection of human subjects.

No time will be allocated at this meeting for receiving oral presentations from the public. Those who plan to attend or would like to obtain a copy of minutes of the panel meeting and roster of the participants of the panel should contact Dr. Alex Chiu, Designated Federal Officer, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC, or by email at *alex.chiu@va.gov.* Any member of the public wishing to attend the meeting or wishing further information should contact Dr. Chiu at (202) 443–5672.

Dated: July 12, 2013.

By Direction of the Secretary.

Vivian Drake,

Committee Management Officer.

[FR Doc. 2013–17206 Filed 7–17–13; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

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Part II

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 226

Endangered and Threatened Species: Designation of Critical Habitat for the Northwest Atlantic Ocean Loggerhead Sea Turtle Distinct Population Segment (DPS) and Determination Regarding Critical Habitat for the North Pacific Ocean Loggerhead DPS; Proposed Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 226

[Docket No. 130513467–3467–01]

RIN 0648–BD27

Endangered and Threatened Species: Designation of Critical Habitat for the Northwest Atlantic Ocean Loggerhead Sea Turtle Distinct Population Segment (DPS) and Determination Regarding Critical Habitat for the North Pacific Ocean Loggerhead DPS

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

ACTION: Proposed rule; request for comments.

SUMMARY: We, the National Marine Fisheries Service (NMFS), propose critical habitat for the Northwest Atlantic Ocean loggerhead sea turtle Distinct Population Segment (DPS) (*Caretta caretta*) within the Atlantic Ocean and the Gulf of Mexico. Specific areas proposed for designation include 36 occupied marine areas within the range of the Northwest Atlantic Ocean DPS. These areas contain one or a combination of nearshore reproductive habitat, winter area, breeding areas, and migratory corridors. We are also asking for comment on whether to include as critical habitat in the final rule some areas that contain foraging habitat and two large areas that contain *Sargassum* habitat. The U.S. Fish and Wildlife Service addressed terrestrial areas (nesting beaches) in a separate document. No marine areas meeting the definition of critical habitat were identified within the jurisdiction of the United States for the North Pacific Ocean DPS, and therefore we are not proposing to designate critical habitat for that DPS. We are soliciting comments from the public on all aspects of the proposal, including information on the economic, national security, and other relevant impacts. We will consider additional information received prior to making a final designation.

DATES: Comments and information regarding this proposed rule must be received by September 16, 2013.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2013–0079, by any 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-2013-0079,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach our comments.
- *Mail:* Submit written comments to Susan Pultz, NMFS, Office of Protected Resources, 1315 East West Highway, Silver Spring, MD 20910.
- *Fax:* 301–713–0376; Attn: Susan Pultz.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received will be part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

The proposed rule, list of references and supporting documents, including the biological report, the draft Economic Analysis and the Initial Regulatory Flexibility Act (IRFA) analysis which is appended to the draft Economic Analysis, are also available electronically at *http://www.nmfs.noaa.gov/pr/species/turtles/loggerhead.htm.*

FOR FURTHER INFORMATION CONTACT: Susan Pultz, NMFS, Office of Protected Resources 301–427–8472 or *susan.pultz@noaa.gov;* or Angela Somma, NMFS, Office of Protected Resources 301–427–8474 or *angela.somma@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Executive Summary

Section 4 of the Endangered Species Act of 1973, as amended (ESA) requires the designation of critical habitat for threatened and endangered species to the maximum extent prudent and determinable, and provides for the revision of critical habitat based on the best scientific data available, as appropriate (16 U.S.C. 533(a)(3)(A); 16 U.S.C. 1533(b)(2)). Critical habitat may only be designated in areas under U.S. jurisdiction (50 CFR 424.12(h)). Critical habitat is defined as ''(i) the specific areas within the geographical area occupied by the species, at the time it is listed [under Section 4], on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination by the Secretary that such areas are essential for the conservation of the species'' (16 U.S.C. section 1532(5)(A)).

This rule proposes designation of critical habitat for the threatened Northwest Atlantic Ocean Distinct Population Segment (DPS) of the loggerhead sea turtle (*Caretta caretta*), and also constitutes NMFS' proposed determination that there are no areas meeting the definition of ''critical habitat'' for the endangered North Pacific Ocean DPS of the loggerhead sea turtle. The designation of critical habitat was prompted by a 2011 final rule revising the listing of loggerhead sea turtles under the ESA from a single worldwide listing of the species as threatened to nine DPSs, listed as either threatened or endangered (76 FR 58868, September 22, 2011). The two DPSs that are the subject of this notice—the Northwest Atlantic Ocean and North Pacific Ocean—are the only DPSs of loggerheads that occur within U.S. jurisdiction.

We propose designation of 36 marine areas within the Northwest Atlantic Ocean DPS as critical habitat. These areas that contain one or a combination of nearshore reproductive habitat (off nesting beaches to 1.6 km (1 mile)), wintering habitat, breeding habitat, and constricted migratory corridors. We further seek comment on whether to include foraging habitat and two large areas that contain *Sargassum* habitat. The U.S. Fish and Wildlife Service (USFWS) proposed terrestrial critical habitat (nesting beaches) in a separate rulemaking on March 25, 2013 (78 FR 18000). We refer to those terrestrial areas in this report where necessary to explain how we identified corresponding marine habitat. No marine areas are proposed for designation as critical habitat within the North Pacific Ocean DPS. We did not identify any unoccupied areas essential to the conservation of either DPS.

Background

The loggerhead sea turtle was listed worldwide as a threatened species on July 28, 1978 (43 FR 32800) pursuant to the Endangered Species Act of 1973, as amended (ESA). No critical habitat was designated for the loggerhead at that time. Pursuant to a joint memorandum of understanding, signed on July 18, 1977, the U.S. Fish and Wildlife Service (USFWS) has jurisdiction over sea

turtles on the land and the National Oceanic and Atmospheric Administration's (NOAA's) NMFS has jurisdiction over sea turtles in the marine environment. On September 22, 2011, NMFS and USFWS jointly published a final rule revising the loggerhead's listing from a single worldwide threatened species to nine DPSs (76 FR 58868). In the final rule, five DPSs were listed as endangered (North Pacific Ocean, South Pacific Ocean, North Indian Ocean, Northeast Atlantic Ocean, and Mediterranean Sea), and four DPSs were listed as threatened (Northwest Atlantic Ocean, South Atlantic Ocean, Southeast Indo-Pacific Ocean, and Southwest Indian Ocean). Two DPSs occur within U.S. jurisdiction: the Northwest Atlantic Ocean DPS (range defined as north of the equator, south of 60° N. lat., and west of 40° W. long.), and the North Pacific Ocean DPS (range defined as north of the equator and south of 60° N. lat.). At the time the final listing rule was developed, we lacked comprehensive data and information necessary to identify and describe physical or biological features (PBFs) of the terrestrial and marine habitats. As a result, we found designation of critical habitat to be ''not determinable'' (see 16 U.S.C. section 1533(b)(6)(C)(ii)). In the final rule we stated that we would consider designating critical habitat for the two DPSs within U.S. jurisdiction in future rulemakings. Information from the public related to the identification of critical habitat, essential PBFs for this species, and other relevant impacts of a critical habitat designation was solicited. We received two responses, one from the Department of the Navy, Commander Navy Region Southeast, dated January 26, 2012, and one from Oceana, dated March 6, 2012. These comments were considered in the formulation of the proposed rule.

NMFS and USFWS convened a critical habitat review team (CHRT) to assist in the assessment and evaluation of critical habitat areas for the Northwest Atlantic Ocean and North Pacific Ocean DPSs, which met three times in 2012. The CHRT consisted of six NMFS and two USFWS biologists with experience and expertise ranging from loggerhead biology to sea turtle management and ESA section 7 consultations. Five biologists from the states of Florida, Georgia, South Carolina, and North Carolina served as consultants to the team.

USFWS and NMFS decided to publish separate proposed rules in accordance with our respective jurisdictions. Terrestrial areas, which are under the jurisdiction of USFWS, are not included in this proposed rule. This proposed rule details the areas under NMFS jurisdiction—those in the marine environment. Terrestrial areas (nesting beaches) are referred to only when needed to explain how corresponding marine habitat was determined. In many areas, marine habitat that we are proposing is adjacent to nesting beaches proposed for designation as critical habitat by USFWS. Nowhere do they overlap. NMFS and FWS currently plan to issue a combined final rule.

Because the agencies had not yet made the required determinations regarding designation of critical habitat for these DPSs, the Center for Biological Diversity, Oceana, and the Turtle Island Restoration Network sent NMFS and USFWS a notice of intent to file a lawsuit on October 11, 2012. A complaint for declaratory and injunctive relief was filed in the United States District Court for the Northern District of California on January 8, 2013. On March 25, 2013, the USFWS proposed rule designating specific nesting beaches as critical habitat for the Northwest Atlantic Ocean DPS was published in the **Federal Register** (78 FR 18000, March 25, 2013).

Loggerhead Natural History

The loggerhead belongs to the family Cheloniidae along with all other sea turtle species except the leatherback (*Dermochelys coriacea*). The genus *Caretta* is monotypic. The carapace of adult and juvenile loggerheads is reddish-brown. Mean straight carapace length (SCL) of nesting females in the southeastern United States, the only location where loggerheads nest in the United States, averages 90 centimeters (cm) (35 inches (in)) (NMFS 2001). Hatchlings vary from light to dark brown to dark gray dorsally and lack the reddish-brown coloration of adults and juveniles. Flippers are dark gray to brown above with distinct white margins. The ventral coloration of the plastron and other areas of the integument are generally yellowish to tan. At emergence, hatchlings average 45 millimeters (mm) (1.8 in) SCL and weigh approximately 20 grams (g) (0.7 ounces (oz)) (Dodd 1988).

Loggerheads are long-lived, slow-growing animals that use multiple habitats across entire ocean basins throughout their life history. This complex life history encompasses terrestrial, inshore/estuarine, nearshore, and open ocean habitats. The three basic ecosystems in which loggerheads live are categorized in this proposed designation as the following:

(1) Terrestrial zone (supralittoral)—the nesting beach where oviposition (egg laying), embryonic development, and hatching occurs.

(2) Neritic zone—the nearshore marine environment (from the surface to the sea floor) where water depths do not exceed 200 meters (m) (656 feet (ft)). The neritic zone generally includes the continental shelf, but in areas where the continental shelf is very narrow or nonexistent, the neritic zone conventionally extends from the shore to areas where water depths reach 200 m (656 ft). Neritic habitat also occurs inshore, in bays and estuaries.

(3) Oceanic zone—the open ocean environment (from the surface to the sea floor) where water depths are greater than 200 m (656 ft).

The following global nesting information is provided for context, but note the remainder of this proposed rule will focus on marine areas in the Northwest Atlantic Ocean and North Pacific Ocean DPSs, because these are the only DPSs that occur in U.S. waters.

Loggerhead sea turtles occur throughout the temperate and tropical regions of the Atlantic, Pacific, and Indian Oceans (Dodd 1988). However, the majority of loggerhead nesting is at the western rims of the Atlantic and Indian Oceans. Only two loggerhead nesting aggregations have greater than 10,000 females nesting per year: Peninsular Florida, in the United States, and Masirah Island, in Oman (Baldwin *et al.* 2003; Ehrhart *et al.* 2003; Kamezaki *et al.* 2003; Limpus and Limpus 2003b; Margaritoulis *et al.* 2003). Smaller nesting aggregations occur in the Northern Gulf of Mexico, Dry Tortugas, and Georgia through North Carolina (United States), Quintana Roo and Yucatan (Mexico), Brazil, Cape Verde Islands (Cape Verde), Queensland and Western Australia (Australia), Japan, Cay Sal Bank (Bahamas), Tongaland (South Africa), Mozambique, Arabian Sea Coast and Halaniyat Islands (Oman), Cyprus, Peloponnesus, Zakynthos, Crete (Greece), and Turkey (NMFS and USFWS 2008).

Loggerheads in the Northwest Atlantic Ocean DPS nest on beaches in the southeastern United States, whereas loggerheads in the North Pacific Ocean DPS nest outside of U.S. jurisdiction, in Japan. The Northwest Atlantic Ocean DPS's nesting season extends from about late April through early September with nesting occurring primarily at night. Loggerheads typically lay approximately 3 to 6 nests per season (Murphy and Hopkins 1984; Frazer and Richardson 1985; Hawkes *et al.* 2005; Scott 2006; Tucker 2010;

Ehrhart, unpublished data) at intervals of approximately 12 to 15 days (Caldwell 1962; Dodd 1988). Mean clutch size varies from about 100 to 126 eggs (Dodd 1988). Remigration intervals (number of years between successive nesting migrations) typically average from 2.5 to 3.7 years (Richardson *et al.* 1978; Bjorndal *et al.* 1983; Ehrhart, unpublished data). Sexual maturity in the Northwest Atlantic Ocean ranges from as early as approximately 25 years to as late as 45 years (Snover 2002; Conant *et al.* 2009; Scott *et al.* 2012). Comparable data for adult males do not exist.

Egg incubation duration for the Northwest Atlantic Ocean DPS varies depending on time of year and latitude but typically ranges from about 42 to 75 days (Dodd and Mackinnon 2006; Dodd and Mackinnon 2007; Dodd and Mackinnon 2008; Dodd and Mackinnon 2009; Dodd and Mackinnon 2010). Sand temperatures prevailing during the middle third of the incubation period also determine the sex of hatchlings (Mrosovsky and Yntema 1980). Incubation temperatures near the upper end of the tolerable range produce only female hatchlings while incubation temperatures near the lower end of the tolerable range produce only male hatchlings. The pivotal temperature (i.e., the incubation temperature that produces equal numbers of males and females) in loggerheads is approximately 29° C (84.2 °F) (Limpus *et al.* 1983; Mrosovsky 1988; Marcovaldi *et al.* 1997). Loggerhead hatchlings pip and escape from their eggs over a 1- to 3-day interval and move upward and out of the nest over a 2- to 4-day interval (Christens 1990). Hatchlings emerge from their nests en masse almost exclusively at night, presumably using decreasing sand temperature as a cue (Hendrickson 1958; Mrosovsky 1968; Witherington *et al.* 1990; Moran *et al.* 1999).

Hatchlings use a progression of seafinding orientation cues to guide their movement from the nest to the marine environment where they spend their early years (Lohmann and Lohmann 2003). Hatchlings first use light cues to find the ocean. On naturally lighted beaches without artificial lighting, ambient light from the open sky creates a relatively bright horizon compared to the dark silhouette of the dune and vegetation landward of the nest. This contrast guides the hatchlings to the ocean (Daniel and Smith 1947; Limpus 1971; Salmon *et al.* 1992; Witherington and Martin 1996; Witherington 1997). Hatchlings also use wave orientation in nearshore waters and magnetic field orientation as they proceed further toward open water (Lohmann and Lohmann 2003).

Immediately after hatchlings emerge from the nest, they begin a period of frenzied activity. During this active period, hatchlings move from their nest to the surf, swim, and are swept through the surf zone, and continue swimming away from land for approximately 20 to 30 hours (Carr and Ogren 1960; Carr 1962; Carr 1982; Wyneken and Salmon 1992; Witherington 1995). This frenzied swimming is thought to be a mechanism for limiting time spent in the nearshore coastal waters, thus reducing exposure to predators such as fish and birds that tend to be concentrated in nearshore coastal waters. Hatchlings do not feed during the swim frenzy and rely on their retained yolk for nourishment (Witherington 2002).

Post-hatchling transition stage describes neonate sea turtles that have matured to the point beyond the period of frenzied swimming (Wyneken and Salmon 1992). The post-hatchling transition stage occurs in the neritic environment and ends when the small turtles enter the oceanic zone (Bolten 2003). Post-hatchling loggerheads are largely inactive, exhibit infrequent low-energy swimming, and have begun to feed. In the Northwest Atlantic, post-hatchling, small oceanic juvenile, and some neritic juvenile loggerheads inhabit areas where surface waters converge to form local downwelling (Witherington 2002; Witherington *et al.* 2012). These areas are characterized by accumulations of floating material, especially pelagic *Sargassum* (a genus of brown macroalgae), and are common between the Gulf Stream and the southeastern U.S. coast, and between the Loop Current and the western Florida coast in the Gulf of Mexico. Surface convergence zones consolidate a variety of floating material, including woody material, seagrass, and synthetic debris (as observed by Witherington *et al.* 2012), but pelagic *Sargassum* is prolific. *Sargassum* and other flotsam can be arranged within long linear or meandering rows collectively termed ''windrows'' as a result of Langmuir circulations, internal waves, and convergence zones along fronts, but when currents and winds are negligible, *Sargassum* is also found in broad irregular mats or scattered clumps (Comyns *et al.* 2002; SAFMC 2002).

This neritic post-hatchling stage is weeks or months long and may be a transition to the oceanic stage that loggerheads enter as they grow and are carried by ocean currents (Witherington 2002; Bolten 2003).

The oceanic juvenile stage begins when loggerheads first enter the oceanic zone (Bolten 2003). Juvenile loggerheads originating from nesting beaches in both the Northwest Atlantic and North Pacific Oceans appear to use oceanic developmental habitats and move with the predominant ocean gyres for several years before returning to their neritic foraging habitats (Pitman 1990; Bowen *et al.* 1995; Zug *et al.* 1995; Musick and Limpus 1997; Bolten 2003). The presence of *Sargassum* is also important for the oceanic juvenile life stage, as it offers a concentrated, protected foraging area, with facilitated dispersal by associated oceanic currents. Turtles in this stage use active and passive movements relative to oceanic currents and winds, with 75% of their time spent in the top 5 m (16 ft) of the water column (Howell *et al.* 2010; Witherington *et al.* 2012).

In the western Atlantic, Caribbean Sea and Gulf of Mexico, post-hatchling and oceanic juvenile sea turtle habitat occurs at the margins of the Mexican Current, Yucatan Current, Gulf Loop Current, Florida Current, and Gulf Stream; at the margins and centers of eddies produced by these currents; at tidal rips and other convergence zones at the plume seaward of the Mississippi River delta; at consolidated patches (lines, mats) of pelagic *Sargassum;* and at other convergence zones indicated by salinity fronts, temperature fronts, water-color changes, or floating debris (including pelagic *Sargassum*). Loggerheads are also found in the Sargasso Sea, the open-ocean ecosystem of pelagic drift algae found in the Atlantic Ocean and defined by ocean currents (but generally outside the U.S. EEZ). These habitat features are dynamic and transitory. Juvenile sea turtles do not just use the currents as passive transport, but will actively swim to maintain a position in currents that provide favorable transport away from coastal areas and cold waters that would present lower odds of survival (Putman *et al.* 2012). The importance of such current systems, and access to those currents by hatchling sea turtles, are thought to influence the evolution of sea turtle nesting location choices and may explain the limited loggerhead nesting in large sections of the Gulf of Mexico that would have otherwise suitable beaches (Putman *et al.* 2010).

The actual duration of the oceanic juvenile stage varies. In the North Pacific Ocean, juveniles may spend an estimated 27 years in their oceanic phase (Conant *et al.* 2009) with juvenile loggerheads not returning to coastal neritic habitats until around 60 cm (24 in) SCL (Ishihara *et al.* 2011, referring to coastal waters of Japan; Y. Matsuzawa and Sea Turtle Association of Japan,

unpublished data). In the Atlantic Ocean, the duration of the oceanic juvenile stage is estimated to be between 7 and 24 years, with juveniles recruiting to neritic habitats over a size range of 45.5–64 cm (18–25 in) curved carapace length (Bolten *et al.* 1993; Bjorndal *et al.* 2000; Snover 2002; Bjorndal *et al.* 2003; Loggerhead Turtle Expert Working Group (TEWG 2009)). Studies conducted in the Northwest Atlantic Ocean and Mediterranean Sea indicate that some juveniles move between neritic and oceanic zones (Keinath 1993; Laurent *et al.* 1998; Witzell 2002; Bolten 2003; Morreale and Standora 2005; Mansfield 2006; McClellan and Read 2007; Eckert *et al.* 2008; Mansfield *et al.* 2009; Arendt *et al.* 2012c).

The neritic juvenile stage begins when loggerheads exit the oceanic zone and enter the neritic zone (Bolten 2003). After migrating to the neritic zone, juvenile loggerheads continue maturing until they reach adulthood, engaging in foraging and migratory behavior. In the western North Atlantic, neritic juvenile loggerheads inhabit continental shelf waters from Cape Cod Bay, Massachusetts, south through Florida, the Bahamas, Cuba, and the Gulf of Mexico (Musick and Limpus 1997; Spotila *et al.* 1997a; Hopkins-Murphy *et al.* 2003). Notable inshore habitat includes estuarine waters such as Long Island Sound, Delaware Bay, Chesapeake Bay, Pamlico and Core Sounds, the large open sounds of South Carolina and Georgia, Mosquito and Indian River Lagoons, Biscayne Bay, Florida Bay, and numerous embayments fringing the Gulf of Mexico (Musick and Limpus 1997; Spotila *et al.* 1997a; Hopkins-Murphy *et al.* 2003). Juvenile loggerheads reside in particular developmental foraging areas for many years (Lutcavage and Musick 1985; Mansfield 2006; Ehrhart *et al.* 2007; Braun-McNeill *et al.* 2008a; Arendt *et al.* 2012f). Sea turtle migrations and distribution in neritic habitat are largely correlated to environmental conditions including sea surface temperature (SST) (Coles and Musick 2000; Braun-McNeill *et al.* 2008b) and changes in habitat quality over time (*e.g.,* declines in prey availability (Mansfield *et al.* 2009). Some juveniles move between neritic and oceanic zones (Keinath 1993; Laurent *et al.* 1998; Witzell 2002; Bolten 2003; Morreale and Standora 2005; Mansfield 2006; McClellan and Read 2007; Eckert *et al.* 2008; Mansfield *et al.* 2009; Arendt *et al.* 2012c).

The neritic zone also provides important foraging habitat, internesting habitat, breeding habitat, and migratory habitat for adult loggerheads. Habitat preferences of non-nesting adult loggerheads in the neritic zone differ from the juvenile stage in that relatively enclosed, shallow water estuarine habitats with limited ocean access are less frequently used. Areas such as Pamlico Sound, North Carolina, and the Indian River Lagoon, Florida, regularly used by juvenile loggerheads, are only rarely frequented by adults (Ehrhart and Redfoot 1995; Epperly *et al.* 2007). In comparison, estuarine areas with more open ocean access, such as the Delaware Bay and the Chesapeake Bay in the U.S. mid-Atlantic, as well as the neritic shelf waters of the Mid-Atlantic Bight and the South Atlantic Bight are regularly used by both juvenile and adult loggerheads, primarily during warmer seasons (Lutcavage and Musick 1985; Spotila *et al.* 1998; Stezer 2002; Mansfield 2006; Hawkes *et al.* 2007; Mansfield *et al.* 2009; Hawkes *et al.* 2011; Arendt *et al.* 2012b; Arendt *et al.* 2012c; Arendt *et al.* 2012d; Ceriani *et al.* 2012; Pajuelo *et al.* 2012; Griffin *et al.,* unpublished data). Shallow water habitats with large expanses of open ocean access, such as Florida Bay, provide year-round resident foraging areas for significant numbers of male and female adult loggerheads, including nesting females (Schroeder *et al.* 1998; Witherington *et al.* 2006).

Loggerheads are distributed along the east coast of the United States and Gulf of Mexico, generally along the continental shelf approximately out to the 200 m (656 ft) bathymetric contour line (TEWG 2009). Seasonal composites indicate few to no turtles occurring coastally north of 36° N. lat., or just north of Cape Hatteras, North Carolina, during winter. From spring through fall, turtles occurred in nearshore coastal waters with high use areas occurring from South Carolina north into Virginia's Chesapeake Bay and coastal waters of the Mid-Atlantic Bight. During the colder fall and winter months, turtles had a high frequency of days spent south of Cape Hatteras through Florida.

In the Gulf of Mexico, nearshore coastal surveys have been infrequently conducted, with most surveys further offshore (TEWG 2009). When surveys covered nearshore areas, sightings usually were reported. This was especially true during fall surveys off the west coast of Florida, indicating a high density of loggerheads sighted during those surveys.

Adults may also periodically move between neritic and oceanic zones (Harrison and Bjorndal 2006; Hawkes *et al.* 2006; Girard *et al.* 2009; Reich *et al.* 2010; Eder *et al.* 2012). Hatase *et al.* (2002) used stable isotope analyses and satellite telemetry to demonstrate that some adult female loggerheads nesting in Japan inhabit oceanic habitats rather than neritic habitats. Kobayashi *et al.* (2011) found that non-reproductive loggerheads (size 64.0–92.0 cm (25.2–36.2 in) SCL) originally satellite tagged in Taiwan spent portions of their time in neritic habitats, exhibiting a quasi-resident behavior between Taiwan, China, Japan, and South Korea, and 12.5 percent of their time in the high seas. Reich *et al.* (2010) analyzed stable isotopes and epibionts from Florida nesting loggerheads and found that some turtles may inhabit oceanic habitats. However, Pajuelo *et al.* (2012) evaluated the stable isotope values from Reich *et al.* (2010) and from northern nesting areas in conjunction with satellite telemetry data. This study identified three neritic foraging areas based on isotopic ratios, with differences associated with latitudinal gradients (Pajuelo *et al.* 2012).

In neritic zones, loggerheads are primarily carnivorous, although they do consume some plant matter as well (see Bjorndal 1997; and Dodd 1988, for reviews). Loggerheads feed on a wide variety of food items with ontogenetic, regional, and even individual differences in diet. In general, loggerheads in neritic habitats within the Northwest Atlantic Ocean prey on benthic invertebrates, primarily mollusks and benthic crabs (NMFS and USFWS 2008). Loggerheads occurring in the Eastern Pacific Ocean while in neritic habitats of Baja California Sur, Mexico, feed extensively on pelagic red crabs (*Pleuroncodes planipes*) (Wingfield *et al.* 2011).

Critical Habitat

Section 4 of the Endangered Species Act of 1973, as amended (ESA) requires the designation of critical habitat for threatened and endangered species ''to the maximum extent prudent and determinable,'' and provides for the revision of critical habitat based on the best scientific data available, as appropriate. (16 U.S.C. 1533(a)(3)(A); 16 U.S.C. 1533(b)(2)). Critical habitat may only be designated in areas under U.S. jurisdiction (50 CFR 424.12(h)).

Section 4(b)(2) of the ESA requires us to designate critical habitat for threatened and endangered species ''on the basis of the best scientific data available and after taking into consideration the economic impact, the impact on national security, and any other relevant impact, of specifying any particular area as critical habitat.'' Section 4(b)(2) also grants the Secretary of Commerce (Secretary) discretion to exclude any area from critical habitat if s/he determines ''the benefits of such

exclusion outweigh the benefits of specifying such area as part of the critical habitat.'' However, the Secretary may not exclude areas that ''will result in the extinction of the species.''

The ESA defines critical habitat in section 3(5)(A) as: ''(i) the specific areas within the geographical area occupied by the species, at the time it is listed . . . on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed . . . upon a determination by the Secretary that such areas are essential for the conservation of the species.''

Joint NMFS–USFWS regulations emphasize that in identifying critical habitat, the agencies shall consider those PBFs that are essential to the conservation of a given species and that may require special management considerations or protection (50 CFR 424.12(b)). The regulations provide examples of the kinds of essential features to consider, which may include but are not limited to:

(1) Space for individual and population growth, and for normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, rearing of offspring, germination, or seed dispersal; and generally

(5) Habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of a species.

The regulations also require agencies to ''focus on the principal biological or physical constituent elements'' (hereafter referred to as ''Primary Constituent Elements'' or PCEs) within the specific areas considered for designation, which ''may include, but are not limited to, the following: . . . nesting grounds, spawning sites, feeding sites, seasonal wetland or dryland, water quality or quantity, . . . geological formation, vegetation type, tide, and specific soil types'' (50 CFR 424.12(b)). There is inherent overlap between what may constitute a PBF and what can be enumerated as a PCE. In this proposed rule, when we set out a list of PCEs with a PBF, our intent is that the PBF exists whenever a sufficient subset of PCEs is present to allow the habitat to serve the conservation function for a single life stage. It is not necessary for all the PCEs to occur simultaneously.

Section 4(b)(2) of the ESA and our implementing regulations (50 CFR 424.12(a)), require designation of critical habitat to be based on the best scientific data available. Accordingly, we reviewed the most recent and comprehensive assessment for loggerheads by habitat category (e.g., neritic, oceanic), which for most cases was the TEWG (2009). This review resulted in the identification of relatively high use areas (generally those with 60 or more turtle days in the TEWG satellite tracking analysis figures), which served as a proxy for identifying important habitat areas, especially as there is little quantitative data on loggerhead use of offshore waters. This information was supplemented by known and available studies that were not included in the TEWG analysis or occurred subsequent to it. For the nearshore reproductive habitat, we relied on data and information on nesting distribution and patterns to identify nearshore reproductive areas associated with high density nesting beaches, as described in the USFWS proposed rule to designate critical habitat for the Northwest Atlantic Ocean DPS (78 FR 18000, March 25, 2013). For the *Sargassum* habitat, we reviewed data on the distribution of *Sargassum* and its relationship to loggerhead habitat needs to identify *Sargassum* habitat.

Once critical habitat is designated, section 7 of the ESA requires Federal agencies to ensure they do not fund, authorize, or carry out any actions that are likely to result in the ''destruction or adverse modification'' of that habitat (16 U.S.C. section 1536(a)(2)). This standard is separate from the section 7 requirement that Federal agencies must ensure that their actions are not likely to ''jeopardize the continued existence of'' listed species.

Geographical Area Occupied by the Species

As noted above, the statutory definition of ''critical habitat'' requires that we initially identify the geographical area occupied by the species at the time of its listing. NMFS has interpreted ''geographical area occupied'' in the definition of critical habitat to mean generally the range of the species at the time of listing (which, for the loggerhead DPSs, was September 22, 2011 (76 FR 58868). Loggerhead sea turtles occur throughout the temperate and tropical regions of the Atlantic, Pacific, and Indian Oceans (Dodd 1988). Because critical habitat can only be designated in U.S. territory, the findings set out in this proposed rule are limited to the Northwest Atlantic Ocean and North Pacific Ocean DPSs within the U.S. Economic Exclusive Zone (EEZ). For both of these DPSs, there is no known unoccupied marine habitat because all areas known to have been historically occupied are still occupied. As such, we identified the geographical area occupied as south of 60° N. lat., north of the equator, and west of 40° W. long. for the Northwest Atlantic Ocean DPS, and south of 60° N. lat. and north of the equator for the North Pacific Ocean DPS (76 FR 58868, September 22, 2011). While this is the range occupied by the species, we reviewed data for only U.S. EEZ waters within that range. Within the U.S. EEZ, loggerhead sea turtle nesting occurs only within the Northwest Atlantic Ocean DPS, and USFWS defined the terrestrial portion of the geographical area occupied in this DPS as those areas where nesting has been documented for the most part annually for a 10-year period (2002 to 2011) (78 FR 18000, March 25, 2013).

Northwest Atlantic Ocean DPS

As stated earlier, we analyzed three ecosystem types when identifying critical habitat: Terrestrial, neritic, and oceanic. Because NMFS has jurisdiction only in the marine environment, this rule examines areas within the broad categories of neritic and oceanic habitat, although as we worked through our analysis we also identified *Sargassum* habitat as a separate category, as *Sargassum* occurs in both neritic and oceanic habitat.

Neritic habitat consists of the nearshore marine environment from the surface to the sea floor where water depths do not exceed 200 m (656 ft), including inshore bays and estuaries. For purposes of describing potential critical habitat in the Atlantic Ocean, the CHRT considered loggerhead behavior and broke discussions of neritic habitat into several habitat types: (1) Nearshore Reproductive Habitat, including hatchling swim frenzy and internesting female habitat; (2) Foraging Habitat; (3) Wintering Habitat; (4) Breeding Habitat; (5) Constricted Migratory Habitat; and (6) *Sargassum* Habitat. However, because of the overlap of many of these habitats, all but the *Sargassum* Habitat (which also extends into oceanic habitat) were labeled Neritic Habitat in any units proposed for designation as critical habitat.

Nearshore Reproductive Habitat: Nearshore reproductive habitat includes habitat for the hatchling swim frenzy and for females during the internesting period from the shoreline (Mean High Water (MHW)) seaward 1.6 km (1 mile). This nearshore zone is a vulnerable,

pivotal transitional habitat area for hatchling transit to open waters, and for nesting females to transit back and forth between open waters and nesting beaches during their multiple nesting attempts throughout the nesting season. The location of nearshore reproductive habitat is determined largely by the location of the nesting beaches. The four recovery units identified in the Recovery Plan for the Northwest Atlantic Population of the Loggerhead Sea Turtle (NMFS and USFWS 2008) represent nesting assemblages and, thus, the geographical areas utilized for nesting by each unit contain this nearshore reproductive habitat. The recovery units are (1) the Northern Recovery Unit, which is defined as loggerheads originating from nesting beaches from the Florida-Georgia border through southern Virginia (the northern extent of the nesting range); (2) the Peninsular Florida Recovery Unit, defined as loggerheads originating from nesting beaches from the Florida-Georgia border through Pinellas County on the west coast of Florida, excluding the islands west of Key West, Florida; (3) the Dry Tortugas Recovery Unit, defined as loggerheads originating from nesting beaches throughout the islands located west of Key West, Florida, because these islands are geographically separated from other recovery units; and (4) the Northern Gulf of Mexico Recovery Unit, defined as loggerheads originating from nesting beaches from Franklin County on the northwest Gulf coast of Florida through Texas (the western extent of U.S. nesting range). The fifth recovery unit, the Greater Caribbean Recovery Unit, includes all nesting assemblages within the Greater Caribbean, which are outside the U.S. EEZ with a few exceptions in Puerto Rico and the U.S. Virgin Islands. Marine waters offshore Puerto Rico and the U.S. Virgin Islands are not proposed as critical habitat and will not be discussed further, due to extremely limited records of inhabitance (Pollock *et al.* 2009).

The habitat characteristics of this nearshore zone are important in female nest site selection and successful repeat nesting. In addition to nesting beach suitability and proximity to nearshore oceanic currents needed for hatchling transport, habitat suitable for transit between the beach and open waters by the adult female turtle is necessary. Nesting females typically favor beach approaches with few obstructions or physical impediments such as reefs or shallow water rocks which may make the entrance to nearshore waters more difficult or even injure the female as she attempts to reach the surf zone (Salmon 2006). During the internesting period, loggerhead sea turtles have been shown to use varying strategies. It is rare for turtles to travel well offshore during internesting, with the vast majority remaining no more than a few miles from shore. However, the nearshore areas used range from individuals remaining directly off the beach on which they had just nested, to individuals traveling substantial distances along shore before settling into a resting area to await the next nesting attempt, with habitats types ranging from the back side of barrier islands, to sand, to structure (Hopkins and Murphy 1981; Stoneburner 1982; Mansfield *et al.* 2001; Griffin 2002; Scott 2006; Tucker 2009; Hart *et al.* 2010).

Foraging Habitat: Foraging loggerheads are commonly found throughout the continental shelf from Florida to Cape Cod, Massachusetts, and in the Gulf of Mexico from Florida to Texas, although their presence in more northern waters (north of Cape Hatteras) is dependent upon suitable water temperature (Shoop and Kenney 1992; Keinath 1993; Epperly *et al.* 1995a; Morreale and Standora 2005; Braun-McNeill *et al.* 2008b; NMFSa 2012). In other words, foraging grounds for juvenile and adult loggerheads are essentially the entire continental shelf, including estuaries, bays, and sounds (Hopkins-Murphy *et al.* 2003; Morreale and Standora 2005).

In-water surveys were reviewed to identify habitat features of important foraging grounds, although this endeavor was largely unsuccessful. Arendt *et al.* (2012d) conducted trawl surveys from South Carolina to northern Florida and found loggerhead capture locations to be clustered throughout the survey area. While there were spatial hotspots and cold spots in this area, the origin of spatial clusters could not be explained by biotic and other environmental parameters (Arendt *et al.* 2012d). Mansfield *et al.* (2009) also examined environmental parameters (e.g., SST, chlorophyll *a,* sea surface height, net primary productivity) associated with satellite-tracked juvenile loggerheads in the neritic and oceanic environment. Parameter ranges varied by season and by habitat, with the highest chlorophyll values associated with neritic loggerheads during the summer (Mansfield *et al.* 2009).

In addition to the satellite telemetry and aerial survey data indicating high use areas, diet studies examining stomach contents, and trawl studies mentioned above, stable isotope analyses of nitrogen and carbon have been examined to provide information on forage species and the environment in which loggerheads foraged (Vander Zanden *et al.* 2010; Ceriani *et al.* 2012; Pajuelo *et al.* 2012a; Pajuelo *et al.* 2012b). While large scale geographic regions (e.g., Mid-Atlantic Bight, South Atlantic Bight) used by adult loggerheads to forage can be identified by stable isotope studies, feeding areas at a finer scale will require the use of additional biomarkers (Pajuelo *et al.* 2012b).

Winter Habitat: The importance of winter habitat became clear as we evaluated foraging habitat given the unique nature and patterns of this seasonal habitat. While loggerheads from northern foraging areas may inhabit other areas during the winter (e.g., Georgia and Florida; Hawkes *et al.* 2007; Mansfield *et al.* 2009), the best available data indicates that the area south of Cape Hatteras is an important winter concentration area, especially for turtles from the Northern Recovery Unit and other Recovery Units that may forage in northern waters.

Cold water temperatures can be lethal for ectothermic marine turtles, with temperatures lower than 10 °C leading to cold stunning, the metabolic suppression of activity which may result in stranding and death (George 1997; Milton and Lutz 2003). Water temperatures north of Cape Hatteras decrease in the fall, which coincides with a southerly migration of loggerheads in search of more favorable habitat (Lutcavage and Musick 1985; Shoop and Kenney 1992; Byles 1988; Keinath 1993; Morreale and Standora 2005; Mansfield *et al.* 2009). Loggerheads inhabiting northern foraging areas during the summer move to winter areas, presumably to avoid declining water temperatures (which fall as low as 5 °C), whereas loggerheads found in southern foraging areas (off Georgia and Florida) year round do not need to migrate across latitudes in the fall and winter because water temperatures generally remain above 18 °C in winter (Hawkes *et al.* 2011).

Loggerheads migrate southward past Cape Hatteras when water temperatures cool, but the end destination appears to vary (Morreale and Standora (2005). Some turtles continue moving to a position far enough south to ensure suitable temperatures throughout the winter (e.g., off Florida), while others move to the closest position with reasonable temperatures (e.g., southern North Carolina). Indeed, the region south of Cape Hatteras, North Carolina, has been identified as a high use concentration area for loggerheads in the winter months (Epperly *et al.* 1995a;

Keinath 1993; Morreale 1999; Mansfield *et al.* 2009; TEWG 2009; Hawkes *et al.* 2011; Ceriani *et al.* 2012; Griffin *et al.,* unpublished data).

Some evidence indicates loggerheads concentrate in certain areas during the winter, while some data suggest wider dispersal in winter than in the summer and movement into oceanic waters (Mansfield *et al.* 2009; Arendt *et al.* 2012c). Cape Canaveral, Florida, is one of these winter areas with a concentration of loggerheads, some of which may be brumating (Carr *et al.* 1980; Henwood 1987; Ogren and McVea 1995; Morreale and Standora 2005). The combination of water temperatures, shallow water, and relative production contribute to the suitability of Cape Canaveral during the winter (Morreale and Standora 2005).

The difference between wintering areas off Florida and the Gulf of Mexico and waters off southern North Carolina (at what is thought to be the northern extent of suitable winter habitat) is that southern North Carolina provides consistent warm water habitat and is the closest thermally habitable winter environment for turtles that forage further north (Keinath 1993; Mansfield *et al.* 2009). Inhabiting the area between Cape Hatteras and Cape Fear during the winter at the edge of the Gulf Stream minimizes migratory distance back to northerly summer foraging areas, and therefore the time and energy needed to reach them, while avoiding cold winter temperatures in inshore waters at the same latitude, and reducing the energetic costs necessary to maintain a position within the strong currents of the Gulf Stream (Epperly *et al.* 1995a; Hawkes *et al.* 2007; Mansfield *et al.* 2009). The Gulf Stream flows along the shelf edge from the south, coming relatively close to shore off Cape Hatteras, then turning offshore to the northeast. Favorable temperature and depth regimes occur throughout the winter along the western edge of the Gulf Stream from Cape Hatteras south (Epperly *et al.* 1995a). Further, offshore waters in southern North Carolina would be expected to be more thermally stable than inshore waters (Hawkes *et al.* 2011). The western edge of the Gulf Stream provides warm waters and, together with the confluence of other water masses, creates a dynamic and highly productive environment (SAFMC 2002; Mansfield *et al.* 2009). High upwelling coastal regions have been noted as having particular importance as potential foraging areas (McCarthy *et al.* 2010).

Breeding Habitat: While breeding likely occurs anywhere that reproductively active males and females encounter each other during the breeding season, efficient propagation of such a widely dispersed species would require that breeding-age adults either remain in regular proximity to each other or migrate to specific locations at specific times to gather for breeding. Arendt *et al.* (2012b) concluded that loggerheads in the Northwest Atlantic Ocean DPS use both strategies. Some reproductively mature males and females co-occur on foraging grounds year round, while others migrate to and concentrate in established areas during the breeding season (Hawkes *et al.* 2011; Arendt *et al.* 2012b; Foley *et al. in review*). While mating does occur across a larger area and further out from shore, it appears to be more common closer to the nesting grounds (Owens 2012, pers. comm.). Mating primarily begins a few weeks prior to the nesting season and may last more than six weeks (Miller *et al.* 2003). The nesting season for loggerhead turtles in the Northwest Atlantic Ocean is typically from late April to early September (NMFS and USFWS 2008). We recognize the data limitations and inherent difficulty in identifying every breeding area that marine species inhabit, so we analyzed the known high density breeding aggregations to derive their associated specific habitat features to frame the evaluation for critical habitat designation.

While mating is also prevalent offshore of the nesting beaches, two primary breeding sites were identified as containing large concentrations of reproductively active male and female loggerheads in the spring, prior to the nesting season. The first is off southern Florida, from the shore out to the 200 m (656 ft) contour in between the Marquesas Keys and the Martin County/Palm Beach County line. Foley *et al.* (*in review*) concludes that this area is serving as a concentrated breeding site based upon their research on turtle movements in the migratory corridor, along with other studies on adult male and female movements and capture data, and anecdotal reports of mating pairs. This is further supported by unpublished data of reproductively active male and female loggerheads in this area prior to the nesting season (Foley 2012, pers. comm.).

The second area identified as a concentrated breeding site is located in the nearshore waters just south of Cape Canaveral, Florida. The location is central to the high value Florida east coast nesting beaches (as defined in the USFWS proposed rule to designate terrestrial critical habitat for the Northwest Atlantic Ocean DPS (78 FR 18000) and at the northern extent of southern Florida).

We were unable to identify specific habitat features within the breeding areas to distinguish them from other areas not used for breeding. In the face of a lack of clear habitat features, we believe it is reasonable to conclude that the importance of the breeding areas is based primarily on their locations. The first area is located within the southern Florida migratory corridor leading to the prime nesting habitat, and the second area is central to the prime nesting habitat along the east coast of Florida and at the northern end of the migratory corridor.

Constricted Migratory Habitat: Migratory habitat, particularly habitat that is constricted, was examined closely as we sought to describe critical habitat. Loggerheads are wide-ranging, with individuals often traveling long distances among nesting, breeding, and foraging sites. The continental shelf appears to be a natural delineation for migratory corridors of juveniles and adults. Although some individuals take less direct migratory routes, and some even cross the shelf out to open waters to access foraging grounds in the Caribbean (Arendt *et al.* 2012b; Ceriani *et al.* 2012), telemetry data from most studies show that all but a few individuals migrating to or from nesting and foraging grounds use waters between land and the shelf break and/or nearshore current (Gulf Stream or Florida Current).

We identified two migratory corridors that are constricted in width, as indicated by both the width of the continental shelf and available satellite tracks, and thus more vulnerable to perturbations than other migratory areas along the continental shelf. These migratory corridors occur off the coast of North Carolina and Florida.

The first constricted migratory corridor is off the coast of North Carolina. As noted above, sea turtles are highly migratory and ectothermic, thus linked to the thermal constraints of their environment (Spotila *et al.* 1997b). For those loggerheads that migrate northward in the spring (to foraging areas in the Mid-Atlantic Bight), and southward in the fall (to waters with more suitable water temperatures, e.g., south of Cape Hatteras), passage through the waters off North Carolina is necessary. The continental shelf offshore North Carolina narrows considerably between 34.75° and 36° N. lat, resulting in a narrow strip of available neritic habitat (Arendt *et al.* 2012b), which is approximately 30 km (18.6 miles) in width off Cape Hatteras (SAFMC 2002). This narrow corridor of

continental shelf waters extends to the north and south, until the continental shelf widens and the turtles have a larger available area to inhabit. The shelf break depth ranges from approximately 150 m (492 ft) in the Mid-Atlantic Bight to 50 m (164 ft) off Cape Hatteras to 70 m (230 ft) in Onslow Bay (Werner *et al.* 1999). While some loggerheads may move offshore with the Gulf Stream at the junction of Cape Hatteras (McClellan and Read 2007; Mansfield *et al.* 2009), the majority of telemetry data shows neritic juveniles and adults transiting the waters of the narrow continental shelf along the North Carolina Outer Banks (Morreale and Standora 2005; Mansfield *et al.* 2009; Hawkes *et al.* 2011; Arendt *et al.* 2012b; Griffin *et al.,* unpublished data).

The second constricted migratory corridor is off the southeastern coast of Florida. Of several migratory corridors along the continental shelf that have been identified for Florida turtles, one along the southeastern coast of Florida from the Keys to the central east coast of the state is the only one that is constricted by a narrowing of the shelf. This southern Florida corridor stretches from the western edge of the Marquesas Keys to Cape Canaveral, with the shelf, and thus the migratory route used by the turtles, widening substantially beyond each of the end points. This narrow shelf is under 2 km (1.2 mi) wide at its narrowest off West Palm Beach with a gradual widening north of West Palm Beach up to Cape Canaveral where it is around 50 km (31.1 mi) wide. The narrowing results in a highly defined, constricted and densely-used migratory corridor that appears to be important for a large proportion of the Peninsular Florida Recovery Unit post-nesting females tracked from the Archie Carr National Wildlife Refuge (NWR). These turtles followed the narrow route along the coast of southern Florida and some ended their migration on the southwest Florida shelf, whereas others traveled north along the shelf or out to the Caribbean (Ceriani *et al.* 2012; Foley *et al. in review*). The importance of this route was also noted from anecdotal information cited in Meylan *et al.* (1983) where aerial surveys for bluefin tuna resulted in the sightings of hundreds of loggerhead turtles along the Florida Keys reef tract in mid-to-late May 1976 and 1977 during the breeding season and early nesting season. The same surveys found only a few turtles at any given time in April and early May in the same areas. The use of this migratory corridor has also been documented for some adults and juveniles making their fall migration from the Mid-Atlantic Bight area to the Gulf of Mexico (Mansfield 2006; Mansfield *et al.* 2009). While most of the research conducted has involved post-nesting females, there is information that male loggerheads also use the same corridor for reproduction-related migrations (Arendt *et al.* 2012b). It is also notable that a portion of the Southern Florida migratory corridor also serves as a concentrated breeding site.

Sargassum Habitat: Sargassum habitat is found in both the neritic and oceanic environment. Witherington *et al.* (2012) found that the distribution of post-hatchling and early juvenile loggerheads was determined by the presence of *Sargassum.* Indeed, in surveys in which they measured the relative abundance of sea turtles in transects of surface-pelagic habitat across areas with and without *Sargassum,* Witherington *et al.* (2012) found that 89% of 1,884 post-hatchling and juvenile turtles were initially observed within 1 meter of floating Sargassum. *Sargassum* rafts are likely not the only habitat of this life stage, as young turtles move through other areas where *Sargassum* does not occur (Carr and Meylan 1980); however, loggerheads may be actively selecting these habitats for shelter and foraging opportunities. Behavioral studies have shown that neonate loggerheads are attracted to floating seaweed and hide motionless for long periods of time in the weed (Mellgren *et al.* 1994; Mellgren and Mann 1996). Further, laboratory and field experiments with post-hatchling loggerhead and green turtles found that the turtles oriented towards *Sargassum* (Smith and Salmon 2009). Post-hatchlings remain at or near the surface for the majority of the time while in the *Sargassum* environment (Mansfield *et al.* 2012; Mansfield and Putman *in press*). Witherington *et al.* (2012) found the majority of loggerheads to be within 1 m (3.3 ft) of *Sargassum,* and of those turtles, most were inactive at the surface, suggesting that they were drifting with *Sargassum* rather than transiting through it. Of the turtles that were active at the surface, most were found with their front flippers or mouths actively touching or manipulating *Sargassum,* a behavior consistent with active foraging (Witherington *et al.* 2012). Neritic size loggerheads are also found in association with *Sargassum* on the continental shelf (Witherington 2012, pers. comm.).

Pelagic *Sargassum* supports a diverse assemblage of marine organisms, including over 100 species of fish, fungi, micro- and macro-epiphytes, at least 145 species of invertebrates, four species of sea turtles, and numerous marine birds (SAFMC 2002). The planktonic community beneath the *Sargassum* along the Gulf Stream front is more productive than the core of the Gulf Stream or the waters of the outer continental shelf, and potential loggerhead food is in greater abundance than the surrounding water (Richardson and McGillivary 1991). Witherington (2002) captured post-hatchling loggerheads in association with floating material near a Gulf Stream front off east-central Florida. Analysis of loggerhead gut content showed that 70 percent of ingested organisms were associated with the *Sargassum* community (see Witherington 2002). Witherington *et al.* (2012) propose that the diet of turtles found within the *Sargassum* community is that of a generalist, opportunistic omnivore.

Sargassum is widespread and the geographical and temporal distributions are variable and not well understood. Most pelagic *Sargassum* in the Atlantic Ocean circulates between 20° N. and 40° N. lat. and 30° W. long. and the western edge of the Florida Current/Gulf Stream (SAFMC 2002; Dooley 1972). These downwelling *Sargassum* areas also occur close to the shore and in the Gulf of Mexico (Bortone *et al.* 1977; Gower and King 2011), and may occur in the Atlantic Ocean as far north as the Grand Banks (Dooley 1972; SAFMC 2002). Distribution and movement of pelagic *Sargassum* in the Gulf of Mexico and western Atlantic Ocean exhibits a temporal pattern from year to year (Gower and King (2011). *Sargassum* is concentrated in the northwest Gulf of Mexico from March to June, then spreads eastward into the central and eastern Gulf of Mexico. After September, few concentrations are present in the Gulf of Mexico. *Sargassum* detection counts are generally low in the Atlantic Ocean for the months of March, April, and May, then disperse into both the Gulf of Mexico and a widespread area of the Atlantic Ocean east of Cape Hatteras, spreading further east (approximately to 45° W. long.) by September and ending up northeast of the Bahamas in February of the following year (Gower and King 2011).

In the western North Atlantic Ocean, the highest *Sargassum* production has been found in the Gulf Stream, lowest on the shelf, and intermediate in the Sargasso Sea, with *Sargassum* contributing about 0.5 percent of the total primary production in the respective area, but nearly 60 percent of the total in the upper 1 m (3 ft) of the water column (Howard and Menzies 1969; Carpenter and Cox 1974; Hanson

1977). *Sargassum* production varies by season, with the greatest biomass occurring off the southeastern U.S. coast after July (Gower and King 2011). This roughly coincides with peak hatchling production in the southeastern United States (Mansfield and Putman *in press*).

The specific density of *Sargassum* that may result in high concentration of loggerhead turtles is unknown. It has been suggested that turtle density increases with *Sargassum* density and *Sargassum* consolidation, especially when *Sargassum* consolidation is linear (Witherington *et al.* 2012). *Sargassum* consolidation is greatest at strong convergences, which occur at fronts, especially at the margins of major surface currents. Witherington *et al.* (2012), however, captured most turtles in *Sargassum* outside these dense convergence zones (i.e., in scattered patches, weak convergences, windrows), so a direct correlation between strong convergences and essential loggerhead habitat cannot be made. That said, the highest density of post-hatchling loggerheads was found near the Gulf Stream (a major convergence) off Florida; little effort and few captures occurred at major convergences in the Gulf of Mexico (Witherington *et al.* 2012).

The physical forces that aggregate *Sargassum* also aggregate pollutants and debris, making this habitat especially vulnerable. Witherington *et al.* (2012) found a high frequency of plastics in the *Sargassum* community, which may impact the quality and prey species found in this habitat (as well result in direct impacts to loggerheads from ingestion). This plastic and debris may originate from a variety of sources, and disposal at sea or on land.

Oceanic Habitat: Although adults transition between neritic and oceanic habitat, the oceanic habitat is predominantly used by young loggerhead sea turtles that leave neritic areas as neonates or young juveniles, and remain in oceanic habitat moving with the predominant ocean gyres for several years. The ocean currents and gyres, such as the Gulf Stream and Florida Loop Current in the Atlantic Ocean, serve as important dispersal mechanisms for hatchlings and neonate sea turtles as well as vital developmental habitat for those early age classes. The presence of *Sargassum* is important for the oceanic juvenile life stage, as it offers a concentrated, protected foraging area, with facilitated dispersal by associated oceanic currents.

The oceanic juvenile stage in the North Atlantic Ocean has been primarily studied in the waters around the Azores and Madeira (Bolten 2003). In Azorean waters, satellite telemetry data and flipper tag returns suggest a long period of residency (Bolten 2003), whereas off Madeira, turtles appear to be transient (Dellinger and Freitas 2000). Preliminary genetic analyses indicate that juvenile loggerheads found in Moroccan waters are of western Atlantic Ocean origin (M. Tiwari, NMFS, and A. Bolten, unpublished data).

Other concentrations of oceanic juvenile turtles exist in the Atlantic Ocean, such as in the region of the Grand Banks off Newfoundland (Witzell 2002). Much of the information on the prevalence of juvenile loggerheads in U.S. oceanic waters comes from captures in the pelagic longline fishery (Witzel 1999; Yeung 2001; NMFS 2004; Watson *et al.* 2005; LaCasella *et al., in review*). High loggerhead bycatch has been observed in the U.S. Northeast distant pelagic fishing statistical reporting area, which is in the western North Atlantic Ocean, including the Grand Banks (Witzel 1999; Yeung 2001). However, fishery-dependent data may not necessarily indicate important loggerhead habitat, as it is only representative of the distribution of fishing effort. Previous genetic information indicated the Grand Banks were foraging grounds for a mixture of loggerheads from all the North Atlantic Ocean rookeries (Bowen *et al.* 2005; LaCasella *et al.* 2005), but recent analysis shows that juvenile loggerheads in the central North Atlantic Ocean (e.g., the Grand Banks) are almost exclusively of Northwest Atlantic Ocean DPS nesting stock origin (instead of Northeast Atlantic Ocean or Mediterranean Sea DPSs), with the majority coming from the large eastern Florida rookeries (LaCasella *et al., in review*).

There are limited fishery-independent studies on the oceanographic features associated with loggerhead high use areas in the Atlantic oceanic environment. However, McCarthy *et al.* (2010) analyzed movement of satellite-tracked juvenile loggerheads (n=10) in relation to the environment they occupied within the North Atlantic Ocean. All loggerheads exhibited behavior interpreted as foraging in waters with high chlorophyll *a* and shallower parts of the ocean compared to deeper, low chlorophyll areas (McCarthy *et al.* 2010). Further, straighter tracks (not interpreted as foraging) occurred in warmer SST and areas with weaker current velocity. Juvenile loggerheads may spend more time foraging in shallow oceanic waters (represented by seamounts) with high chlorophyll (McCarthy *et al.* 2010). Juveniles have also been found in areas of high primary productivity and along the edges of mesoscale eddies (identified by sea surface height anomalies) (Mansfield *et al.* 2009).

North Pacific Ocean DPS

The following discussion is not divided by ecosystem (i.e., terrestrial, neritic, and oceanic zones) and habitat type, as with the Northwest Atlantic Ocean DPS, due to the limited occurrence of loggerheads within the North Pacific Ocean DPS in habitats under U.S. jurisdiction. Within the U.S. EEZ, loggerheads are found only in waters northwest of the Hawaiian Islands, and off the U.S. west coast, primarily the Southern California Bight, south of Point Conception. No loggerhead nesting occurs within U.S. jurisdiction. Loggerhead nesting has been documented only in Japan (Kamezaki *et al.* 2003), although low level nesting may occur outside of Japan in areas around the South China Sea (Chan *et al.* 2007). Loggerhead hatchlings undertake extensive developmental migrations using the Kuroshio and North Pacific Current (Polovina *et al.* 2001; Polovina *et al.* 2006; Kobayashi *et al.,* 2008), and some turtles reach the vicinity of Baja California in the eastern Pacific Ocean (Uchida and Teruya 1988; Bowen *et al.* 1995; Peckham *et al.* 2007). After spending years foraging in the central and eastern Pacific Ocean, loggerheads return to their natal beaches for reproduction (Resendiz *et al.* 1998; Nichols *et al.* 2000) and remain in the western Pacific Ocean for the remainder of their life cycle (Iwamoto *et al.* 1985; Kamezaki *et al.* 1997; Sakamoto *et al.* 1997; Hatase *et al.* 2002; Ishihara *et al.* 2011).

In the central North Pacific Ocean, foraging juvenile loggerheads congregate in the boundary between the warm, vertically-stratified, low chlorophyll water of the subtropical gyre and the vertically-mixed, cool, high chlorophyll transition zone water. This boundary area is referred to as the Transition Zone Chlorophyll Front and is favored foraging and developmental habitat for juvenile loggerhead turtles (Polovina *et al.* 2001; Kobayashi *et al.* 2008). Satellite telemetry of loggerheads also identified the Kuroshio Extension Current (KEC), specifically the Kuroshio Extension Bifurcation Region (KEBR), as a forage hotspot (Polovina *et al.* 2006; Kobayashi *et al.* 2008). The KEBR is an area of high primary productivity that concentrates zooplankton and other organisms that in turn attract higher trophic level predators, including sea turtles (Polovina *et al.* 2004). Loggerhead sea

turtle habitat in the North Pacific Ocean occurs between 28° N. and 40° N. lat. (Polovina *et al.* 2004) and SST of 14.45 °C to 19.95 °C (58.01 °F to 67.91 °F) (Kobayashi *et al.* 2008), but is highly correlated at the 17/18 °C (63/64 °F) isotherm (Howell *et al.* 2008).

Within the U.S. EEZ around Hawaii, North Pacific Ocean DPS developmental, foraging and transiting habitat described above occurs both seasonally and inter-annually within the southernmost fringe of the Transition Zone Chlorophyll Front. Although the Transition Zone Chlorophyll Front located north and northwest of Hawaii is an oceanic foraging area for juveniles (Polovina *et al.* 2006), the area extending into the U.S. EEZ is very limited compared to the foraging area overall. Further, the area of the U.S. EEZ around Hawaii does not provide suitable SST, and therefore suitable loggerhead habitat, from July to November.

Loggerheads, which have been documented off the U.S. west coast and southeastern Alaska, are primarily found south of Point Conception, the northern boundary of the Southern California Bight. In Alaska, only two loggerheads have been documented since 1960 (Hodge and Wing 2000). In Oregon and Washington, records have been kept since 1958, with nine strandings recorded over approximately 54 years (NMFS Northwest Region stranding records database, unpublished data). In California, 48 loggerheads have either stranded or been taken in the drift gillnet fishery since 1990.

Of 32 documented strandings in California from 1990 to 2012, only four loggerheads have stranded north of Point Conception. The majority of strandings occurred in months associated with warmer SSTs (July–September), although loggerheads also stranded in the colder months (December–February) (NMFS Southwest Region sea turtle stranding database, unpublished data). An examination of the records from 1990 to 2010 showed that just over half of the loggerheads (14 of 26) stranded in the Southern California Bight area during non-El Niño events (Allen *et al.* 2013).

The only fishery that has been documented as interacting with loggerheads off the U.S. west coast and Alaska is the California/Oregon (now just California) drift gillnet fishery targeting swordfish and thresher sharks. This fishery has been observed by the NMFS Southwest Region since 1990, with roughly 20 percent observer coverage. Since 1990, 16 loggerheads have been observed taken by this fishery. All of the fishery interactions have taken place south of Point Conception. The loggerheads caught in these drift gillnets were most likely early and late oceanic stage juveniles (Ishihara *et al.* 2011).

Off the U.S. west coast, the southward flowing California Current moves along the California coast, after which it swings westward as the California Current Extension and becomes or joins the North Pacific Equatorial Current. Normally this current brings low salinity, low nutrient waters relative to upwelled waters along the coast (Chavez *et al.* 2002). Northerly-moving countercurrents include (1) the Davidson Countercurrent, flowing northward and coastally between Point Conception and the Pacific Northwest; (2) the Southern California Countercurrrent, moving coastally from southern Baja California and expanding into a gyre inside the islands off southern California; and (3) the California undercurrent transporting deeper waters (~200 m (~ 656 ft)) northward toward California from the Baja peninsula, and bringing warmer, higher saline and nutrient/oxygen-poor waters into the Southern California Bight (in Boyd 1967; Bograd and Lynn 2001). The seasonal behavior of these current features may influence prey of loggerheads and other marine species. Overall the Southern California Bight is little influenced by coastal upwelling, and is therefore nutrient-limited over much of the year.

During some El Niños, anomalies in the wind field in the western equatorial Pacific Ocean generate Kelvin waves that move eastward, depressing the thermocline, deepening the nutricline, and developing warm surface temperatures. Reduced coastal upwelling also leads to less nutrient-rich waters and less biological production (Chavez *et al.* 2002). The normal current pattern, as described above, is also altered, with a reduced southward surface transport of the California Current and increased northward flow of the deeper California Undercurrent, bringing more tropical planktonic species such as warm-water krill and, most importantly for loggerheads, pelagic red crabs, found to be an important prey species of these turtles off central Baja California (Schwing *et al.* 2005; Peckham *et al.* 2011).

A comparison of the habitat features within the Southern California Bight under El Niño and non-El Niño conditions with those in central Baja California, reveals significant differences. This helps explain why loggerheads are found primarily off Baja and rarely off southern California. South of Point Eugenia on the Pacific coast of Baja California, pelagic red crabs have been found in great numbers, attracting top predators such as tunas, whales and sea turtles, particularly loggerheads (Blackburn 1969; Pitman 1990; Wingfield *et al.* 2011). This area is highly productive due to its unique geomorphological and physical oceanographic features, which promote upwelling through persistent positive wind-stress and wind stress curl (Ekman pumping). Water is recirculated in the upwelling shadow, providing warmer SSTs. Fronts exist in the nearshore area which converge cold and warm water, enhance prey abundance and, maintain high densities of red crabs. Thus, foraging opportunities and thermal conditions are optimal for loggerhead sea turtles (Wingfield *et al.* 2011), and these turtles have been documented in the thousands in this area off Baja California (Pitman 1990; Seminoff *et al.* 2006). Pitman (1990) found loggerhead distribution off Baja to be strongly associated with the red crab, which often occurred in such numbers as to ''turn the ocean red.''

Allen *et al.* (2013) reported a significant difference in stable carbon ($\delta^{13}C$) and nitrogen ($\delta^{15}N$) isotope ratios between eight loggerheads bycaught by the California drift gillnet fishery in the Southern California Bight and loggerheads in Baja, Mexico. The team also found that isotope ratios of Southern California Bight turtles were highly similar to those of loggerheads sampled in the central Pacific Ocean. However, of hundreds of loggerheads foraging in oceanic and neritic habitats of the North Pacific Ocean that have been studied via satellite telemetry (Polovina *et al.* 2003; Polovina *et al.* 2004; Polovina *et al.* 2006; Kobayashi *et al.* 2008; Howell *et al.* 2010; Nichols *et al.* 2000; Peckham *et al.* 2011), few turtles exhibited movements toward the U.S. west coast or toward the Baja California Peninsula. Further review of the loggerhead tagging database of turtles tagged in the central north Pacific Ocean showed only 2 out of 54,655 track records showed up in the U.S. west coast EEZ (Kobayashi, 2012, pers. comm). This occurred in October 1998 and was found to be a transition period between the 1997–1998 El Niño and a La Niña (Benson *et al.* 2002). In addition, Peckham *et al.* (2011) reported that of 40 loggerheads outfitted with satellite transmitters off the Baja California Peninsula, none of the turtles traveled north to southern California.

Little is known about the importance of prey to loggerheads found in southern California waters. Few necropsies have been conducted on loggerheads

stranded or bycaught off the U.S. west coast. Based on the stable isotope analysis by Allen *et al.* (2013), loggerheads found off the U.S. west coast may employ a strategy similar to that of loggerheads found in the central North Pacific Ocean, i.e. that they forage opportunistically on a wide variety of prey. However, identifying oceanographic and biological features that aggregate prey in the Southern California Bight is not as clear as in the central north Pacific Ocean (concentrations of phytoplankton which attract neustonic and oceanic organisms, etc.; Parker *et al.* 2005). Confounding this is the documented presence (and assumed co-occurrence) of both loggerheads and pelagic red crabs in the Southern California Bight during non-normal (El Niño) years. Because loggerheads are rarely found off the U.S. west coast and they are generally opportunistic feeders, no prey could be identified as a biological feature of habitat for this species.

Although nearly all (15 of 16) loggerheads observed taken by the California drift gillnet fishery occurred during El Niño events, Allen *et al.* (2013) point out that loggerheads have stranded off southern California during non-El Niño events. An examination of the records showed that the SSTs in the vicinity of bycaught turtles were similar to the SSTs that loggerheads associated with off the central North Pacific Ocean (14 °C to 19.95 °C (58 °F to 68 °F) (Kobayashi *et al.* 2008). Given this wide range and non-predictability of SST as a habitat feature within the Southern California Bight, we could not identify SST as a habitat feature for loggerheads. In addition, given the variability in oceanographic (e.g. currents, lack of prolific or profound year-round upwelling or fronts/gyres) and biological (e.g. chlorophyll *a*) features that are associated within the Southern California Bight during both non-El Niño and El Niño years, and which differ so profoundly from other areas where loggerheads are regularly found in large numbers (i.e. the central north Pacific Ocean and off central Baja California, Mexico), we could identify no such habitat features associated with loggerheads found off the Southern California Bight.

Description of Physical or Biological Features and Primary Constituent Elements and Identification of Specific Sites

Based on the best available scientific information, we identified PBFs of habitat essential for the conservation of the loggerhead sea turtle, as well as the PCEs that support the PBFs. A particular area of critical habitat serves its conservation function whenever one or more of the PBFs is present. Further, because the various life stages will depend upon different PCEs, it is not necessary for every PCE listed with a PBF to be present in order to find that the PBF is present in a specific area. So long as a sufficient subset of PCEs is present to allow the habitat to serve the conservation function for a single life stage, we would conclude that the PBF is found within the area.

We also described the means used to identify specific sites that contain the PBFs and PCEs considered essential to the conservation of the species. In this rulemaking, we include a summary of the means used to identify terrestrial habitat, even though terrestrial critical habitat was proposed for designation by USFWS (78 FR 18000; March 25, 2013), because the critical habitat for nearshore reproductive habitat is very closely associated with the terrestrial habitat. The means used to identify specific habitat containing the PBFs and PCEs in each category (e.g., nearshore reproductive, foraging, migratory, etc.) was different from category to category because each category and life history stage warrant different considerations. As appropriate and consistent with the best available science, we expressly sought to include areas that provided the highest level of conservation benefit to the species, with particular consideration of areas needed to support recovery units discussed in the species' recovery plan (which is by definition reflective of the best available scientific information regarding the conservation needs of the species). Because information that allowed us to use quantitative criteria (such as was done for terrestrial habitat) was lacking, we necessarily identified most marine habitat in a more qualitative manner.

Northwest Atlantic Ocean DPS

PBFs and PCEs were identified for each of the following habitats: (1) Terrestrial Habitat (nesting; done by USFWS); (2) Neritic Habitat (nearshore reproductive, foraging, winter, breeding, migratory); and (3) *Sargassum* Habitat. No PBFs or PCEs were identified for Oceanic Habitat in the Northwest Atlantic Ocean DPS because we could find no specific habitat features that were essential to the conservation of the species within this area other than *Sargassum.*

Terrestrial Habitat: USFWS describes the PBFs of terrestrial habitat as (1) sites for breeding, reproduction or rearing (or development) of offspring, and (2) habitats protected from disturbance or representative of the historical, geographic and ecological distributions of the species. See 78 FR 18000 (March 25, 2013) for more specifics on these PBFs and the PCEs.

As explained further in their proposed rule for terrestrial habitat, USFWS used the following process to select appropriate terrestrial critical habitat units for Northwest Atlantic Ocean DPS. For each recovery unit, they looked at nesting densities by state (or units within the State in the case of Florida) to ensure a good spatial distribution of critical habitat and to address the conservation needs of each recovery unit delineated in the Recovery Plan for the Northwest Atlantic Population of the Loggerhead Sea Turtle (NMFS and USFWS 2008). They identified beach segments as islands or mainland beaches separated by creeks, inlets, or sounds, except for long, contiguous beaches, in which case they used political boundaries, e.g., Myrtle Beach. USFWS then divided beach nesting densities (mean density of nest counts from 2006–2011) into quartiles (four equal groups) by state or, for peninsular Florida, by 5 units within the State, and selected beaches that were within the upper quartile—high density nesting beaches—for designation as critical habitat. USFWS also identified adjacent beaches for each of the high density nesting beaches, i.e., USFWS selected one beach to the north and one to the south of each of the high density nesting beaches identified for inclusion as critical habitat. Because loggerheads are known to exhibit high site fidelity to individual nesting beaches, and because they nest on dynamic beaches that may be significantly degraded or lost through natural processes and upland development, USFWS concluded that protecting beaches adjacent to high nesting density beaches should provide sufficient habitat to accommodate nesting females whose primary nesting beach has been lost. These areas also will facilitate recovery by providing additional nesting habitat for population expansion. For the Dry Tortugas Recovery Unit, USFWS proposed designating as terrestrial critical habitat all islands west of Key West, Florida where loggerhead nesting has been documented, due to the extremely small size of this recovery unit.

Using the rationale described above, USFWS identified 88 units as terrestrial critical habitat for the loggerhead sea turtle. The methodology used for identifying critical habitat is described in detail in the USFWS proposed rule (78 FR 18000, March 25, 2013).

Neritic Habitat: Neritic habitat in the United States occurs only within the

range of the Northwest Atlantic Ocean DPS. We described neritic habitat as waters that are less than 200 m (656 ft) in depth. We described the PBFs and PCEs of neritic habitat as occurring in five categories, which were determined in consideration of the types of loggerhead behavior essential for conservation: Nearshore reproductive, foraging, winter, breeding, and constricted migratory.

Nearshore Reproductive Habitat: We describe the PBF of nearshore reproductive habitat as a portion of the nearshore waters adjacent to nesting beaches that are used by hatchlings to egress to the open-water environment as well as by nesting females to transit between beach and open water during the nesting season.

PCEs that support this habitat are the following:

(1) Nearshore waters directly off the highest density nesting beaches as identified in 78 FR 18000 (March 25, 2013) to 1.6 km offshore;

(2) Waters sufficiently free of obstructions or artificial lighting to allow transit through the surf zone and outward toward open water; and

(3) Waters with minimal manmade structures that could promote predators (i.e., nearshore predator concentration caused by submerged and emergent offshore structures), disrupt wave patterns necessary for orientation, and/or create excessive longshore currents.

As indicated above, the identification of nearshore reproductive habitat was based primarily on the location of beaches identified as high density nesting beaches by USFWS (78 FR 18000, March 25, 2013), as well as beaches adjacent to the high density nesting beaches that can serve as expansion areas, in accordance with the process described in Terrestrial Habitat above. Because the nesting beach habitat considered for designation by USFWS has the densest nesting within given geographic locations, the greatest number of hatchlings is presumed to be produced on these beaches and either the greatest number of nesting females and/or the most productive females presumably nests on these beaches. Currently, nearshore reproductive habitat includes waters off the four high density or expansion nesting beaches that were not proposed for designation as terrestrial critical habitat by USFWS because they occur on military lands that are exempt from designation due to the existence of an adequate Integrated Natural Resources Management Plan (INRMP). They are identified here as essential nearshore reproductive habitat because either their INRMPs do not address waters off the beach or it is not clear to the extent that they address waters off the beach. We are in discussions with the U.S. Marine Corps regarding the INRMP for Onslow Beach on Marine Corps Base (MCB) Camp Lejeune and nearshore areas under their control. We may revisit this determination prior to finalizing this proposed rule.

In determining the boundary for this nearshore reproductive habitat, there was no clear distance from shore indicated in available information and from discussions with experts on hatchling movements. We considered using 1.6 km (1 mile), 4.8 km (3 miles), and distances farther from shore. A study from Georgia (Scott 2006) showed that satellite tagged turtles were observed within state jurisdictional waters (3 miles (4.8 km)) 82 percent of the time. However, longshore dispersal during internesting is also relatively high and turtles may disperse miles away from the nesting beach. Scott (2006) reported that 14 of the 22 turtles (64 percent) had mean distances along shore from the nesting site of ≥10 km (6.2 miles) and 7 (32 percent) had mean distances of ≥20 km (12.4 miles). Numerous other studies have documented similar longshore movement distances during the internesting period (Hopkins and Murphy 1981; Stoneburner 1982; Mansfield *et al.* 2001; Mansfield 2006; Griffin 2002; Tucker 2009; Hart *et al.* 2010). Hatchlings, which remain in a swim frenzy for 20–30 hours (Carr and Ogren 1960; Carr 1962; Carr 1982; Wyneken and Salmon 1992; Witherington 1995), presumably move well beyond 4.8 km (3 miles).

We determined that a distance of 1.6 km (1 mile) from the MHW line of each identified high-density nesting beach would most accurately identify the areas essential to the conservation of loggerhead sea turtles because nearshore waters pose the greatest opportunity for disruption of the habitat functions necessary for offshore egress for hatchlings and transit to and from the nesting beach by nesting females. Threats to the essential function of the hatchling swim frenzy habitat include physical impediments to offshore egress, predator concentration, disruption of wave angles used for orientation to open water, and the formation of strong longshore currents resulting from artificial structures (such as breakwaters or groins), the vast majority of which would occur well within the 1.6 km (1 mile) line. Studies such as Witherington and Salmon (1992) have shown that predation of hatchling sea turtles was substantially higher in the vicinity of reef structure, even patchy, low-relief reefs, than over open sand. Hatchling dispersal during the swim frenzy is both energetically expensive and time-limited. Disorientation and prolonging of the time in which hatchlings attempt to reach deeper, open waters can be expected to have a significant, though unquantifiable, impact on the hatchlings. One such effect can be excess resource expenditures resulting in physiological effects reducing fitness or survival as a result of excessively high lactate levels that are known to occur during frenzy activity (Dial 1987). As they go farther from shore, hatchling dispersal is expected to increase substantially due to individual differences in the angles they swim away from shore and the effects of longshore currents, and the likelihood for significant habitat disruption preventing the hatchlings from reaching their post-hatchling transition habitat is much lower. Likewise, internesting female dispersal is expected to increase in habitats beyond nearshore waters as discussed previously. A distance of 1.6 km (1 mile) from MHW would include the areas most in need of protection from potential habitat disruptions such as the construction and placement of structures that could alter the nearshore habitat conditions and thus affect hatchling egress to open waters from those beaches and nesting female transit to and from the nesting beaches.

The amount and distribution of nearshore reproductive habitat being proposed for designation is closely linked to the USFWS terrestrial critical habitat designation (78 FR 18000, March 25, 2013). Designation of nearshore reproductive habitat off the high density and adjacent nesting beaches will conserve Northwest Atlantic Ocean DPS by doing the following: (1) Protecting nearshore habitat adjacent to a broad distribution of nesting sites; (2) allow for movement between beach areas depending on habitat availability (response to changing nature of coastal beach habitat) and support genetic interchange; (3) allow for an increase in the size of each recovery unit to a level at which the threats of genetic, demographic, and normal environmental uncertainties are diminished; and (4) maintain their ability to withstand local or unit level environmental fluctuations or catastrophes.

Using the rationale described above, we identified 36 units of nearshore reproductive habitat.

Foraging Habitat: Identification of foraging areas for consideration as critical habitat was a challenge, given the wide-spread nature of foraging

loggerheads in the Northwest Atlantic Ocean and the lack of clear habitat features of foraging areas, as discussed below.

We describe the PBF of foraging habitat as specific sites on the continental shelf or in estuarine waters frequently used by large numbers of juveniles or adults as foraging areas.

The PCEs that support this habitat are the following:

(1) Sufficient prey availability and quality, such as benthic invertebrates, including crabs (spider, rock, lady, hermit, blue, horseshoe), mollusks, echinoderms and sea pens; and

(2) Water temperatures to support loggerhead inhabitance, generally above 10° C.

We identified high use areas throughout the Atlantic Ocean and Gulf of Mexico, as these areas likely have habitat features that are critical to population recovery. In order to identify high use foraging areas, available data on sea turtle distribution were considered. Specifically, we evaluated information from aerial and shipboard surveys, stable isotope analyses, satellite telemetry studies, and in-water studies to identify areas of known high use foraging habitat.

First, aerial survey and, in some cases, shipboard survey information obtained from available reports were evaluated for loggerhead concentration patterns (Shoop and Kenney 1992; Epperly *et al.* 1995; Keinath 1993; Keinath *et al.* 1996; Mansfield 2006; TEWG 2009; NMFS 2011; NMFSa 2012; Virginia Aquarium 2011a, 2011b, 2012a, 2012b). The aerial survey information showed that loggerheads were dispersed from inshore waters and across the continental shelf from Massachusetts through the Gulf of Mexico. Seasonal differences in distribution were apparent.

Second, we reviewed available stable isotope papers, which can be used to identify distinct foraging regions based upon the carbon and nitrogen values of the prey (Wallace *et al.* 2009; Vander Zanden *et al.* 2010; Ceriani *et al.* 2012; Pajuelo *et al.* 2012a; Pajuelo *et al.* 2012b). The analyses (some of which were combined with satellite telemetry) revealed distinct foraging areas, but on a broad scale. That is, the Mid- and South Atlantic Bights were recognized as prime foraging areas for adult loggerheads, but within these large foraging grounds, finer scale feeding areas could not be identified with the available methodology. The stable isotope papers corroborated the aerial survey information of widespread inhabitance (foraging) in the Atlantic Ocean.

In order to evaluate more specific foraging areas and the habitat features of these high use areas, we then considered satellite telemetry data from published and available sources (McClellan and Read 2007; Hawkes *et al.* 2007; TEWG 2009; Mansfield *et al.* 2009; Hawkes *et al.* 2011; Arendt *et al.* 2012a; Arendt *et al.* 2012b; Arendt *et al.* 2012c; Foley *et al. in review;* Griffin *et al.,* unpublished data; McClellan, unpublished data; NEFSC and Coonamessett Farm Foundation, unpublished data; Virginia Aquarium 2011a, 2011b, 2012a, 2012b). This analysis resulted in a number of high use areas that were further evaluated in consideration of the identified habitat features that would dictate such a high use area. High use areas were considered to be areas with identified home ranges (Hawkes *et al.* 2011), kernel density utilization distributions (Mansfield 2006; McClellan, unpublished data) or a concentration of satellite telemetry points (generally, those with 60 or more turtle days in the TEWG satellite tracking analysis figures) in a particular area (Mansfield *et al.* 2009; TEWG 2009; Hawkes *et al.* 2011; Griffin *et al.,* unpublished data).

There are limited in-water habitat assessments for loggerheads. However, in-water loggerhead capture studies were reviewed in order to gauge the prevalence of the identified habitat features. Such in-water information included regional trawl surveys off South Carolina to northern Florida (Arendt *et al.* 2012d; Arendt *et al.* 2012f) and long-term capture studies in North Carolina and Florida (Epperly *et al.* 2007; Ehrhart *et al.* 2007). NMFS fishery bycatch analyses for bottom trawl, dredge, and gillnet gear were also evaluated in the event those assessments would provide oceanographic correlate information associated with turtle interactions, which would then be helpful in habitat assessments (Murray 2009; Warden 2011; Murray 2011). For example, for commercial trawls, bycatch rates were highest in waters <50 m (164 ft) deep and SST >15 °C (59 °F) and south of 37° N. lat. (Warden 2011). Observable interaction rates between sea turtles and commercial scallop dredges in the Mid-Atlantic were higher with warm SST (generally >17° C (62.6 °F)), depth of around 40–60 m (131–197 ft), and without chain mat use (Murray 2011). For gillnets, rates were highest in SST >15° C (59 °F) with large mesh gillnets and south of 36° N. lat (Murray 2009). It should be noted that these bycatch reports are largely a reflection of where fishing effort is occurring (overlapping with high turtle distribution) and may not be a true reflection of important loggerhead habitat, e.g., there was limited observed bottom trawl effort south of Cape Hatteras. To that end, Murray and Orphanides (*in press*) recently evaluated fishery independent and dependent data to identify environmental conditions associated with turtle presence and the subsequent risk of a bycatch encounter if fishing effort is present. We also reviewed this information, finding that fishery-independent encounter rates were a function of latitude, SST, depth, and salinity. When the model was fit to fishery dependent data (gillnet, bottom trawl, and scallop dredge), it found a decreasing trend in encounter rates as latitude increases, an increasing trend as SST increases, a bimodal relationship between encounter rates and salinity, and higher encounter rates in depths between 25 and 50 m (Murray and Orphanides, *in press*).

The above information supports the widespread nature of loggerhead foraging behavior and associated habitat, spread all along the Atlantic coast wrapping around to the southwest Florida coast and into the Gulf of Mexico. It was difficult to identify habitat features necessary for foraging beyond water temperature and sufficient prey availability and quality, and these both occur year-round in the Gulf of Mexico and the Atlantic coast up to North Carolina, and as far north as Massachusetts in the summer. While loggerheads forage in warm waters throughout the continental shelf, and there are some known foraging habitats, we found no information on specific prey density or quality essential for the conservation of loggerheads, which would serve as PCEs that would help prioritize foraging area type. Foraging areas are likely populated by loggerheads due to abundant or suitable benthic biota, but it is possible that there are other environmental cues that may factor into loggerhead foraging habitat selection. We considered evaluating foraging habitat by substrate type (e.g., hard bottom), but there are no quantitative studies that would help identify the required concentrations and types of foraging substrate, and all are likely to be widespread but patchy throughout the continental shelf. As such, the habitat features of the considered high use foraging areas could not be differentiated and prioritized compared to neighboring areas or identified foraging areas in different regions.

Given the wide-spread nature of foraging loggerheads in the Northwest Atlantic Ocean, and the lack of clear

habitat features of foraging areas, we were unsuccessful in identifying specific high value sites as foraging critical habitat for loggerheads. However, in reviewing the literature, we identified numerous sites of known foraging habitat. In addition to the entire Mid-Atlantic and South Atlantic Bights, and the shelf in the eastern Gulf of Mexico, these areas include, but are not limited to, the following:

- Delaware Bay, New Jersey/Delaware (Spotila *et al.* 1998; Stezer 2002; Mansfield 2006; Griffin *et al.,* unpublished data);
- Chesapeake Bay, Virginia (Lutcavage and Musick 1985; Keinath *et al.* 1987; Byles 1988; Mansfield 2006; Seney and Musick 2007; Mansfield *et al.* 2009; Griffin *et al.,* unpublished data);
- Off the Outer Banks of North Carolina (Shoop and Kenney 1992; McClellan and Read 2007; Mansfield *et al.* 2009; Hawkes *et al.* 2011; Griffin *et al.,* unpublished data);
- Pamlico and Core Sounds, North Carolina (Avens *et al.* 2003; Sasso *et al.* 2007; McClellan 2009; Wallace *et al.* 2009);
- Shipping channels in the southeast United States, e.g., Canaveral Harbor entrance channel, Florida; Fernandina Harbor St. Marys River entrance channel (Kings Bay), Florida; Brunswick Harbor ocean bar channel, Georgia; Savannah Harbor ocean bar channel, Georgia; Charleston Harbor entrance channel, South Carolina (Van Dolah and Maier 1993; Dickerson *et al.* 1995; Arendt *et al.* 2012e);
- Inshore waters of the northern Indian River Lagoon System, Florida (north of South Bay, the Banana River, and Mosquito Lagoon; Medonca and Ehrhart 1982; Witherington and Ehrhart 1989; Ehrhart *et al.* 2007);
- Nearshore waters around Cape Canaveral, Florida (Henwood 1987; Arendt *et al.* 2012a);
- Florida Bay, and waters around the Florida Keys (Schroeder and Foley, unpublished data);
- Continental shelf waters of southwest Florida (Girard *et al.* 2009; Foley 2012, pers. comm.; Hart *et al.* 2012);
- St. Joseph Bay, Florida Panhandle (Lamont 2012, pers. comm.); and
- Waters around Dry Tortugas (Hart *et al.* in prep).

Because we are not proposing any foraging areas for designation, we specifically request input from the public as to the importance of these areas to foraging, any other areas we may have overlooked, and habitat features for foraging areas.

Winter Habitat: While reviewing foraging habitat for high use areas, seasonal differences (e.g., summer vs. winter) were observed. Because warm water winter habitat is essential for northern foraging ectothermic sea turtles and the availability of preferred habitat (water temperature) is confined to specific (southern) areas, we decided to highlight this habitat category as an area of particular importance for loggerheads.

We describe the PBF of winter habitat as warm water habitat south of Cape Hatteras, North Carolina near the western edge of the Gulf Stream used by a high concentration of juveniles and adults during the winter months.

PCEs that support this habitat are the following:

(1) Water temperatures above 10 °C from November through April;

(2) Continental shelf waters in proximity to the western boundary of the Gulf Stream; and

(3) Water depths between 20 and 100 m.

In the consideration of winter habitat, the same data sets as those for foraging habitat were evaluated. The same steps were also followed as above, but greater emphasis was placed on the satellite telemetry data to identify seasonal differences in distribution. While there were other high use areas identified, this analysis revealed a consistent high use area during the colder months off the coast of North Carolina that may be a particularly important area for northern foraging loggerheads.

While loggerheads inhabit and sometimes concentrate in other southern areas during the winter (e.g., Florida), the information reviewed indicated that the features off North Carolina serve to concentrate juvenile and adult loggerheads, especially those foraging in northern latitudes. The greatest loggerhead concentration in the winter off North Carolina occurs south of Cape Hatteras (in particular the area between Cape Lookout and Cape Fear) from November through April (Mansfield *et al.* 2009; Hawkes *et al.* 2011; Griffin *et al.,* unpublished data) in water depths between 20 to 100 m (Hawkes *et al.* 2011; McClellan, unpublished data; NEFSC and Coonamessett Farm Foundation, unpublished data; Read 2013, pers. comm.). We identified this winter habitat area as extending from Cape Hatteras, at the 20-m depth contour straight across 35.27° N. lat. to the 100 m (328 ft) depth contour, south to Cape Fear at the 20 m (66 ft) depth contour (approximately 33.47° N. lat., 77.58° W. long.) extending in a diagonal line to the 100 m (328 ft) depth contour (approximately 33.2° N. lat., 77.32° W. long.). This southern diagonal line (in lieu of a straight latitudinal line) was chosen to encompass the loggerhead concentration area (observed in satellite telemetry data) and identified habitat features, while excluding the less appropriate habitat (e.g., nearshore waters at 33.2° N. lat.).

The designation of critical habitat in southern North Carolina during the winter will likely conserve loggerhead sea turtles by (1) maintaining the habitat in an area where sea turtles are concentrated during a discrete time period and for a distinct group of loggerheads (e.g., northern foragers); and (2) allowing for variation in seasonal concentrations based on water temperatures and Gulf Stream patterns.

Breeding Habitat: Concentrated breeding aggregations were identified via a review of the literature and expert opinion. We determined that such areas are essential to the conservation of the species because, as a result of the high concentration of breeding individuals, the areas likely represent important established locations for breeding activities and the propagation of the species. Although there is no clear, distinct boundary for these concentrated breeding sites, we chose to constrain the boundaries of the proposed designation to what we consider the ''core'' areas where data indicate adult males congregate to gain access to receptive females.

We describe the PBFs of concentrated breeding habitat as sites with high concentrations of both male and female adult individuals during the breeding season.

PCEs that support this habitat are the following:

(1) High concentrations of reproductive male and female loggerheads;

(2) Proximity to primary Florida migratory corridor; and

(3) Proximity to Florida nesting grounds.

We identified two primary breeding sites that have been noted in the scientific literature as containing large concentrations of reproductively active male and female loggerheads in the spring, prior to the nesting season. The first is contained within the Southern Florida migration corridor from the shore out to the 200 m (656 ft) contour along the stretch of the corridor between the Marquesas Keys and the Martin County/Palm Beach County line. The second area identified as a concentrated breeding site is located in the nearshore waters just south of Cape Canaveral, Florida. We attempted to identify specific habitat features or boundaries to help delineate the areas to be potentially proposed as critical habitat, but as

described previously, review of the literature and communication with the researchers that determined the areas to be concentrated breeding sites did not reveal such features. Given a lack of clear ''habitat'' features, per se, it appears a reasonable conclusion that the importance of the breeding areas is based on concentrations of breeding adults which facilitates breeding, and their locations, i.e., proximity to prime nesting habitat and the migratory corridor leading to prime nesting habitat. The first area is located within the southern Florida migratory corridor leading to the prime nesting habitat, and the second area is central to the prime nesting habitat along the east coast of Florida and at the northern end of the migratory corridor.

The designation of critical habitat in the two Florida breeding areas will help conserve loggerhead sea turtles by maintaining the habitat in a documented high use area for behavior essential to the propagation of the species.

Migratory Habitat: Migratory habitat, particularly well-defined, high-use corridors (e.g., continental shelf and land), is essential to the conservation of loggerheads. Further, corridors that are constricted in width are more vulnerable to perturbations than other migratory areas, and may be considered in particular need of protection. Such constricted, high use corridors are used for traveling from nesting, breeding, and foraging sites by both juvenile and adult loggerheads. The corridors provide the function of a relatively safe, efficient route for a large proportion of the population to move between areas that are vital to the species for foraging and reproduction. Thus, we focus our proposed designation of migratory habitat on this type of corridor.

We describe the PBF of constricted migratory habitat as high use migratory corridors that are constricted (limited in width) by land on one side and the edge of the continental shelf and Gulf Stream on the other side.

PCEs that support this habitat are the following:

(1) Constricted continental shelf area relative to nearby continental shelf waters that concentrate migratory pathways; and

(2) Passage conditions to allow for migration to and from nesting, breeding, and/or foraging areas.

Satellite telemetry information, in-water studies, and available mid-Atlantic fishery bycatch assessments showed the majority of neritic stage loggerhead migratory tracks to be on the continental shelf, with two defined shelf constriction areas off North Carolina and Florida (McClellan and Read 2007; Hawkes *et al.* 2007; Mansfield *et al.* 2009; Murray 2009; TEWG 2009; Hawkes *et al.* 2011; Warden 2011; Arendt *et al.* 2012b; Arendt *et al.* 2012c; Ceriani *et al.* 2012; Griffin *et al.,* unpublished data; NEFSC and Coonamessett Farm Foundation, unpublished data; Virginia Aquarium 2011a, 2011b, 2012a, 2012b, Murray and Orphanides, *in press,* Foley *et al. in review*). The constricted shelf waters off North Carolina and southern Florida were identified as high use (Murray 2009; Warden 2011; Foley *et al. in review;* Murray and Orphanides *in press*). This information included both neritic stage juveniles and adults from multiple Recovery Units, and also provided details on seasonality of loggerhead movements and behavior on either end of the migratory area (e.g., foraging, breeding, and nesting areas).

Next, features that constricted the width of these corridors were examined. While the shelf width off southern Florida (typically 3–4 km off Palm Beach and Miami-Dade Counties) (Banks *et al.* 2008) is narrower than the shelf width off North Carolina (approximately 30 km around Cape Hatteras) (Townsend *et al.* 2004), both areas are constricted relative to the shelf width of adjacent areas. The constricted shelf waters off southern Florida and Cape Hatteras are also associated with near-land contact by the Gulf Stream (Putman *et al.* 2010). This results in the available neritic habitat being more narrowly confined in these areas. The location of the Gulf Stream was also assessed as currents may be a factor in guiding sea turtle migrations and distribution.

The loggerhead migratory corridor off North Carolina serves as a concentrated migratory pathway for loggerheads transiting to neritic foraging areas in the north, and back to winter, foraging, and/or nesting areas in the south. The majority of loggerheads will pass through this migratory corridor in the spring (April to June) and fall (September to November), but loggerheads are also present in this area from April through November and, given variations in water temperatures and individual turtle migration patterns, these time periods are variable.

The migratory corridor from the Marquesas Keys to the Cape Canaveral area is the only identified corridor south of the North Carolina corridor. This corridor stretches along the Florida coast from the westernmost edge of the Marquesas Keys (82.17° W. long.) to the tip of Cape Canaveral (28.46° N. lat.). The northern border stretches from shore to the 30-m contour line. The seaward border then stretches from the northeastern-most corner to the intersection of the 200-m contour line and 27° N. lat. parallel. The seaward border then follows the 200-m contour line to the westernmost edge at the Marquesas Keys. Adult male and female turtles use this corridor to move from foraging sites to the nesting beach or breeding sites from March to May, and then use this corridor to move from the nesting beach or breeding sites to foraging sites from August to October, while juveniles and adults use it to move south during fall migrations to warmer waters (Mansfield 2006; Mansfield *et al.* 2009; Arendt *et al.* 2012b; Foley *et al. in review*).

The designation of critical habitat in the North Carolina and southern Florida migratory corridors will help conserve loggerhead sea turtles by (1) preserving passage conditions to and from important nesting, breeding, and foraging areas; and (2) protecting the habitat in a narrowly confined area of the continental shelf with documented high use by loggerheads.

Sargassum Habitat: Sargassum habitat occurs in both the neritic and oceanic environment. The conservation of loggerhead sea turtles, in particular the post-hatchling and small oceanic juvenile stages, is dependent upon suitable foraging and shelter habitat, both of which are provided by *Sargassum* in the Atlantic Ocean and Gulf of Mexico (Witherington *et al.* 2012). *Sargassum* habitat refers to the overarching habitat type that contains multiple life stages (e.g., post-hatchling, juvenile) and behavior categories (e.g., foraging and shelter) of loggerheads, as well as ecosystem zones (e.g., neritic and oceanic).

We describe the PBF of loggerhead *Sargassum* habitat as developmental and foraging habitat for young loggerheads where surface waters form accumulations of floating material, especially *Sargassum.*

PCEs that support this habitat are the following:

(1) Convergence zones, surface-water downwelling areas, and other locations where there are concentrated components of the *Sargassum* community in water temperatures suitable for the optimal growth of *Sargassum* and inhabitance of loggerheads;

(2) *Sargassum* in concentrations that support adequate prey abundance and cover;

(3) Available prey and other material associated with *Sargassum* habitat including, but not limited to, plants and cyanobacteria and animals endemic to

the *Sargassum* community such as hydroids and copepods; and

(4) Sufficient water depth and proximity to available currents to ensure offshore transport, and foraging and cover requirements by *Sargassum* for post-hatchling loggerheads, i.e., >10 m depth to ensure not in surf zone.

Witherington *et al.* (2012) found that the presence of floating *Sargassum* itself, irrespective of other detectable surface features, defined habitat used by juvenile sea turtles. However, it is difficult to identify specific areas where these weedlines are likely to form consistently because *Sargassum* habitat is widespread and dynamic, and dependent upon varying oceanic currents. In the Atlantic Ocean, most pelagic *Sargassum* circulates between 20° N. and 40° N. lat., and 30° W. long. and the western edge of the Florida Current/Gulf Stream (SAFMC 2002). Given the available information on *Sargassum* and loggerhead distribution, we consider *Sargassum* habitat essential for the conservation of loggerhead turtles to occur south of 40° N. lat. throughout the Atlantic Ocean and Gulf of Mexico U.S. EEZ because this is where the processes supporting dynamic *Sargassum* habitat, and the essential features of that habitat, occur.

Sargassum generally circulates more in offshore waters; however, it can occur close to shore, generally deeper than the 10-m depth contour (Witherington, 2012, pers. comm.). While *Sargassum* may extend all the way to land, the value of *Sargassum* habitat to loggerhead turtles in the tidal range is debatable. The *Sargassum* found farther offshore contains concentrated features of this habitat important to loggerhead turtles (e.g., forage, cover, dispersal aid). As such, we considered the 10-m depth contour as the shoreward boundary of *Sargassum* habitat to represent the features essential to the conservation of loggerhead turtles.

Given the broad range of *Sargassum* in the Northwest Atlantic Ocean, we were unsuccessful in identifying specific sites as *Sargassum* critical habitat for loggerheads. Instead, we found virtually the entire range of *Sargassum* habitat within the U.S. EEZ essential to loggerhead posthatchlings and juveniles, although we cannot identify where it will occur at any point in time because *Sargassum* habitat is dynamic and the habitat features are not present at all times throughout the area.

We note that some conservation measures are currently in place to protect *Sargassum* habitat. Essential Fish Habitat has been designated in the Gulf of Mexico and the Atlantic under the Magnuson-Stevens Fishery Conservation and Management Act. There is also a Fishery Management Plan for Pelagic Sargassum Habitat that regulates the harvest of *Sargassum.* However, we also note that these measures do not provide the same protections as critical habitat.

Given the importance of *Sargassum* habitat to loggerhead turtles, we are specifically seeking comment on the proposed inclusion in the final rule of *Sargassum* critical habitat as U.S. waters south of 40° N. lat. in the Atlantic Ocean and Gulf of Mexico from the 10-m depth contour to the outer boundary of the EEZ. For purposes of description, we decided to separate the large geographical area of *Sargassum* habitat into two large contiguous areas, the Gulf of Mexico and the U.S. Atlantic Ocean, although the boundaries and extent of Sargassum habitat could be described differently if we were provided with information that enabled us to do so. If this area is included in the final rule, we would include in the final rule the following specific unit descriptions for *Sargassum* habitat (or some portion thereof, if we were able to identify a more limited area where Sargassum habitat is likely to occur):

LOGG–S–1—Atlantic Ocean Sargassum: U.S. waters south of 40° N. lat. in the Atlantic Ocean to the beginning of the Gulf of Mexico (the Gulf of Mexico/Atlantic Ocean divides begins at the intersection of the outer boundary of the U.S. EEZ and 83° W. long., and proceeds northward along that meridian to 24.58° N. lat. (near the Dry Tortugas Islands)) from the 10-m depth contour to the outer boundary of the EEZ.

LOGG–S–2—Gulf of Mexico Sargassum: U.S. waters in the Gulf of Mexico to the beginning of the Atlantic Ocean (the Gulf of Mexico/Atlantic Ocean divide begins at the intersection of the outer boundary of the U.S. EEZ and 83 °W. long., and proceeds northward along that meridian to 24.58° N. lat. (near the Dry Tortugas Islands)) from the 10-m depth contour to the outer boundary of the EEZ.

We would also include in the final rule the following as the relevant ''physical or biological features essential for conservation'':

Sargassum Habitat. *Sargassum* habitat occurs in both the neritic and oceanic environment. We describe the PBFs of loggerhead *Sargassum* habitat as developmental and foraging habitat for young loggerheads where surface waters form accumulations of floating material, especially *Sargassum.* PCEs that support this habitat are the following:

(1) Convergence zones, surface-water downwelling areas, and other locations where there are concentrated components of the *Sargassum* community in water temperatures suitable for the optimal growth of *Sargassum* and inhabitance of loggerheads;

(2) *Sargassum* in concentrations that support adequate prey abundance and cover; and

(3) Available prey and other material associated with *Sargassum* habitat such as, but not limited to, plants and cyanobacteria and animals endemic to the *Sargassum* community such as hydroids and copepods.

Finally, we would include in the final rule the following overview map for general guidance regarding the location of *Sargassum* critical habitat.

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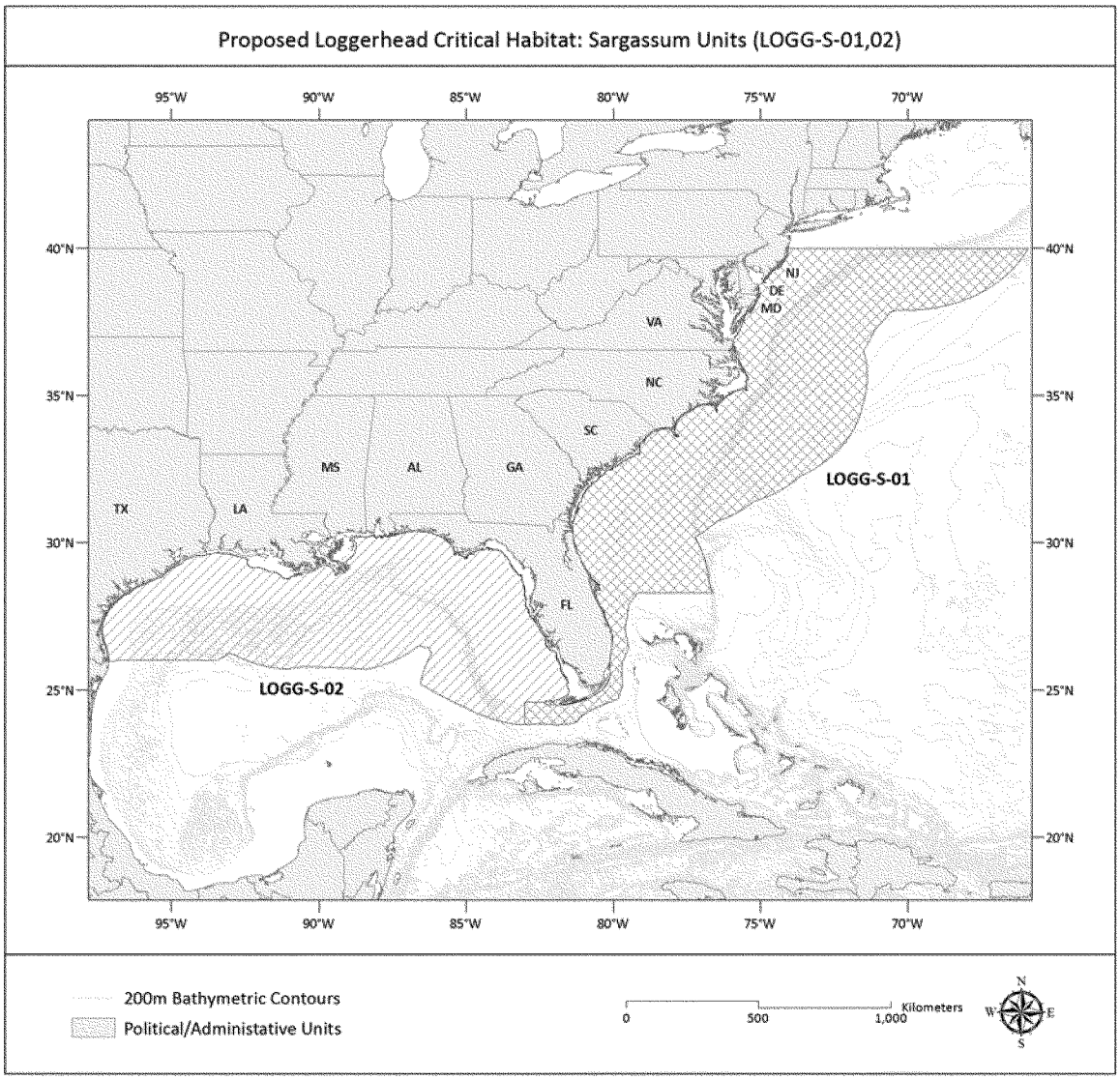

We specifically seek comment on the proposed inclusion of *Sargassum* habitat as critical habitat in the final rule, as well as the proposed regulatory text for the specific unit descriptions, the physical or biological features essential for conservation, and the overview map.

Because we recognize that this covers a great deal of area, we're also seeking comment from the public on areas that more frequently encompass convergence zones, surface-water downwelling areas and/or other locations where concentrated components of the *Sargassum* community are likely to be found in the Atlantic Ocean and Gulf of Mexico in order to delimit more accurately and precisely potential *Sargassum* critical habitat. This may include information on times of year loggerheads are most likely to co-occur with *Sargassum* habitat.

Although consideration of effects to this habitat will be most concerned with impacts to the *Sargassum* itself, such as large scale directed take or large scale pollutants (such as would occur in an oil spill, or large scale disposal or accidental release of trash, wastes and toxic substances), we recognize that the inclusion of *Sargassum* habitat would increase the regulatory burden on Federal agencies and that the dynamic nature of the habitat presents inherent uncertainties and rather novel issues not presented in previous designations by NMFS. Thus, we're also seeking information on potential impacts of designation of *Sargassum* habitat, including the conservation benefits and economic and other costs, that may have been overlooked in this proposed rule.

The designation of *Sargassum* critical habitat would help conserve loggerhead sea turtles by (1) providing for essential forage, cover, and transport habitat for a particularly vulnerable life stage (e.g., post-hatchlings); and (2) ensuring habitat longevity for a habitat type that is important to multiple life stages and not able to be easily replicated.

Oceanic Habitat. We describe oceanic habitat as waters that are 200 m (656 ft) or greater in depth. Aside from *Sargassum* habitat noted above, we did not identify any additional PBFs of oceanic habitat essential to conservation of the species within the Northwest Atlantic Ocean DPS. While loggerheads occur in oceanic waters within the U.S. EEZ and use the Gulf Stream and Florida Loop Current as important dispersal features to access the developmental habitat of the ocean gyres, we could find no specific habitat features that were essential to the conservation of the species within this area other than *Sargassum.*

North Pacific Ocean DPS

Within the range of the North Pacific Ocean DPS, neither neritic nor *Sargassum* habitat are used by loggerheads within U.S. jurisdiction;

therefore, no PBFs were identified for these habitat types. PBFs (and PCEs) were identified for Oceanic Habitat only. Although the Central North Pacific and the Eastern Pacific/U.S. West Coast share the PBFs, they have different accompanying PCEs.

Central North Pacific Ocean: We describe the essential PBFs of loggerhead sea turtle oceanic habitat in the central North Pacific Ocean as waters that support suitable conditions in sufficient quantity and frequency to provide meaningful foraging, development, and/or transiting opportunities to the population in the North Pacific Ocean.

PCEs in the central North Pacific Ocean that support this habitat include the following:

(1) Currents and circulation patterns of the North Pacific Ocean (KEBR, and the southern edge of the KEC characterized by the Transition Zone Chlorophyll Front) where physical and biological oceanography combine to promote high productivity (chlorophyll $a = 0.11 - 0.31$ mg/m^3) and sufficient prey quality (energy density ≥ 11.2 kJ/g) of species; and

(2) Appropriate SSTs (14.45° to 19.95° C (58.01° to 67.91 °F)), primarily concentrated at the 17° to 18° C (63° to 64 °F) isotherm.

Loggerhead foraging and developmental habitat in the North Pacific Ocean occurs between 28° N. and 40° N. lat. (Polovina *et al.* 2004) in water with SST of 14.45° C to 19.95° C (58.01 °F to 67.91 °F) (Kobayashi *et al.* 2008), but is highly correlated at the 17/18° C (63/64° F) isotherm (Howell *et al.* 2008). Kobayashi (2012c; NMFS Pacific Islands Fisheries Science Center (PIFSC), unpublished data) estimated the proportion of the habitat available to loggerheads that occurs in the U.S. EEZ around Hawaii while taking into account seasonal and interannual variability, and found a maximum of 4.2 percent of potential loggerhead habitat within the U.S. EEZ. Kobayashi further examined the seasonal variability of the broader range of SST (14.45° C to 19.95° C). His analysis showed that this range of SST does not exist within the U.S. EEZ from July through November, therefore further limiting suitable loggerhead habitat within the U.S. EEZ around Hawaii to a portion of the year.

Limited data exist to characterize westward migratory routes or habitat of adults traveling back to Japan where they will breed and nest. Of 48 loggerhead turtles fitted with satellite transmitters deployed by the Grupo Tortuguero Proyecto Caguama project at foraging areas in Baja California Sur, Mexico, three (two adults, 1 subadult) transited through the U.S. EEZ around Hawaii (Peckham *et al.* 2011; Peckham 2012, pers. comm). NOAA PIFSC Marine Turtle Research Program stranding data indicate that since 1982 only two loggerheads have been recorded as stranded in the Hawaiian Islands, which may suggest low use of U.S. EEZ waters.

Despite historical population decline and nesting trend variability (Kamezaki *et al.* 2003; Conant *et al.* 2009; Van Houtan and Halley 2011), loggerheads appear to have remained widely distributed and continue to occupy most, if not all, of their historical range in the central North Pacific Ocean. Accordingly, those oceanic areas within loggerhead range that are infrequently used generally do not provide the significant function that they might for a species with a constricted range. The potential loggerhead habitat occurring in the U.S. EEZ around Hawaii represents between 0.68 percent and 4.2 percent of the total habitat in the central portion of the Pacific Ocean. This habitat represents a small percentage of suitable habitat, and the variables that make it suitable only occur within the U.S. EEZ around Hawaii a portion of the year in spite of loggerheads using areas north of it throughout the year.

Given the information presented above, we conclude that the habitat within the U.S. EEZ of the central North Pacific Ocean does not provide meaningful foraging, development, and/or transiting opportunities to the North Pacific Ocean DPS, and therefore does not contain PBFs described in the previous section.

Eastern Pacific/U.S. West Coast: We describe the essential PBFs of loggerhead sea turtle oceanic habitat in the eastern North Pacific Ocean as waters that support suitable conditions in sufficient quantity and frequency to provide meaningful foraging, development, and/or transiting opportunities to the population in the North Pacific Ocean.

PCEs in the eastern North Pacific Ocean that support this habitat include the following:

(1) Sites that support meaningful aggregations of foraging juveniles; and

(2) Sufficient prey densities of neustonic and oceanic organisms.

Given that so few loggerheads have been found off the coasts of Alaska (two since 1960), Oregon and Washington (nine since 1958), and California north of Point Conception (four of 32 off the coast of California since 1990), the only area considered for designation of critical habitat off the U.S. west coast is the area in southern California from Point Conception south to the U.S.-Mexico border (also referred to as the Southern California Bight).

Based on interactions with the California drift gillnet fishery and stranding records, recorded observations in the Southern California Bight are generally rare events, with 16 loggerheads taken in 4,165 observed sets from 1990–2010 (Allen *et al.* 2013) and 28 loggerheads observed stranded from 1990 to 2012 (average ~1.3 loggerheads/year). In contrast, waters off the Pacific coast of Baja California, and particularly within the shelf waters of Ulloa Bay, are highly productive. Loggerheads have been documented in the thousands in this area (Pitman 1990; Seminoff *et al.* 2006), and their occurrence is strongly associated with the red crab, which has often occurred in such numbers as to ''turn the ocean red'' (Pitman 1990).

Due to the rarity of the presence of loggerheads and their prey both historically and currently in waters off the U.S. west coast, U.S. waters in the eastern Pacific Ocean do not provide meaningful foraging, development, and/or transiting opportunities to the loggerhead population in the North Pacific Ocean DPS, and therefore do not contain the PBFs described in the previous section.

Special Management Considerations

An occupied area may be designated as critical habitat if it contains one or more of the PBFs essential to conservation, and if such features ''may require special management considerations or protection'' (16 U.S.C. 1532(5)(a)(i)(II)). Joint NMFS and USFWS regulations (50 CFR 424.02(j)) define ''special management considerations or protection'' to mean ''any methods or procedures useful in protecting PBFs of the environment for the conservation of listed species.'' NMFS determined that the PBFs identified earlier may require special management considerations due to a number of factors that may affect them. These factors include activities, structures, or other byproducts of human activities. The list below is not necessarily inclusive of all factors.

Major categories of factors, by habitat type, follow. All of these may have an effect on one or more PBF or PCE within the range of the Northwest Atlantic Ocean DPS and may require special management considerations as described below.

Northwest Atlantic Ocean DPS

Terrestrial: The USFWS has addressed special management considerations for terrestrial units in their proposed rule.

Neritic: Neritic habitat consists of nearshore reproductive, winter, breeding, and constricted migratory habitat.

Nearshore Reproductive Habitat: The primary impact to the PBFs and PCEs of the nearshore reproductive habitat (habitat from MHW to 1.6 km (1 mile) offshore of high density nesting beaches and adjacent beaches) for loggerhead sea turtles would be from activities that result in a loss of habitat conditions that allow for (a) hatchling egress from the water's edge to open water; and (b) nesting female transit back and forth between the open water and the nesting beach during nesting season. The loss of such habitat conditions could come from, but is not limited to, the following sources:

Offshore structures including, but not limited to, breakwaters, groins, jetties, and artificial reefs, that block or otherwise impede efficient passage of hatchlings or females and/or which concentrate hatchling predators and thus result in greater predation on hatchlings;

(1) Lights on land or in the water, which can disorient hatchlings and nesting females and/or attract predators, particularly lighting that's permanent or present for long durations and has a short wave length (below 540nm);

(2) Oil spills and response, that affect habitat conditions for efficient passage of hatchlings or females;

(3) Alternative offshore energy development (turbines) that affects habitat conditions for efficient passage of hatchlings or females;

(4) Fishing gear that blocks or impedes efficient passage of hatchlings or females; and

(5) Dredging and disposal activities that affect habitat conditions for efficient passage of hatchlings or females by creating barriers or dramatically altering the slope of the beach approach.

Winter Habitat: The PBF, water temperature PCE, and Gulf Stream boundary PCE of the winter habitat for loggerhead sea turtles may be affected through the following:

(1) Large-scale water temperature changes resulting from global climate change; and

(2) Shifts in the patterns of the Gulf Stream resulting from climate change.

While unlikely to be affected to a significant extent by human activities, the water depth PCE (20–100 m) could potentially be affected by extensive dredging or sediment disposal activities.

Breeding Habitat: The PBF of a concentrated breeding habitat and the associated PCE of high concentrations of reproductive male and female loggerheads (which facilitates breeding for individuals migrating to that area) could be affected by the following activities:

(1) Fishing activities that disrupt use of habitat and thus affect concentrations of reproductive loggerheads;

(2) Dredging and disposal of sediments that affect concentrations of reproductive loggerheads;

(3) Oil spills and response that affect concentrations of reproductive loggerheads;

(4) Alternative offshore energy development (turbines) that affect concentrations of reproductive loggerheads; and

(5) Climate change, which can affect currents and water temperatures and affect concentrations of reproductive loggerheads.

Constricted Migratory Habitat: The primary impact to the functionality of the identified corridors as migratory routes for loggerhead sea turtles would be a loss of passage conditions that allow for the free and efficient migration along the corridor. The loss of these passage conditions could come from large-scale and or multiple construction projects that result in the placement of substantial structures along the path of the migration, or other similar habitat alterations, requiring large-scale deviations in the migration movements. This impact is expected to be much more likely, and have a greater impact, in the most constricted areas of the migratory routes. Other activities are less likely to result in an impact to the PCEs but are still considered below.

(1) Oil and gas activities, such as construction and removal of platforms, lighting and noise that alter habitat conditions needed for efficient passage;

(2) Power generation activities such as turbines, wind farms, conversion of wave or tidal energy into power that result in altered habitat conditions needed for efficient passage;

(3) Dredging and disposal of sediments that results in altered habitat conditions needed for efficient passage;

(4) Channel blasting, including use of explosives to remove existing bridge or piling structures or to deepen navigation channels, that results in altered habitat conditions needed for efficient passage;

(5) Marina and dock/pier development that results in altered habitat conditions needed for efficient passage;

(6) Offshore breakwaters that result in altered habitat conditions needed for efficient passage;

(7) Aquaculture structures such as net pens and fixed structures and artificial lighting that result in altered habitat conditions needed for efficient passage;

(8) Fishing activities, particularly those using fixed gear (pots, pound nets), that, when arranged closely together over a wide geographic area, result in altered habitat conditions needed for efficient passage; and

(9) Noise pollution from construction, shipping and/or military activities that results in altered habitat conditions needed for efficient passage.

Sargassum Habitat: The PBF of developmental and foraging habitat in accumulations of floating materials, especially *Sargassum,* and its associated PCEs of convergence zones and other areas of concentration, adequate concentrations of *Sargassum* to support abundant prey and cover, and the existence of the community of flora and fauna typically associated with *Sargassum* habitat can all be impacted by the following activities which may require special management:

(1) Commercial harvest of *Sargassum,* which would directly decrease the amount of habitat;

(2) Oil and gas exploration, development, and transportation that affects the *Sargassum* habitat itself and the loggerhead prey items found within this habitat—this could occur both in the process of normal operations and during blowouts and oil spills, which release toxic hydrocarbons and also require other toxic chemicals for cleanup;

(3) Vessel operations that result in the routine disposal of trash and wastes and/or the accidental release or spillage of cargo, trash or toxic substances, and/or result in the transfer and introduction of exotic and harmful organisms through ballast water discharge, which may then impact the loggerhead prey species found in *Sargassum* habitat;

(4) Ocean dumping of anthropogenic debris and toxins that affects the *Sargassum* habitat itself and the loggerhead prey items found within this habitat; and

(5) Global climate change, which can alter the conditions (such as currents and other oceanographic features and temperature) that allow *Sargassum* habitat and communities to thrive in abundance and locations suitable for loggerhead developmental habitat.

North Pacific Ocean DPS

NMFS did not identify any specific areas within the U.S. EEZ in the North Pacific Ocean that contain PBFs essential to the conservation of the North Pacific Ocean DPS; therefore, we did not analyze special management considerations.

Proposed Determinations and Critical Habitat Designation

Northwest Atlantic Ocean DPS

After reviewing the best available scientific information, we conclude that certain specific areas meet the definition of critical habitat for the Northwest Atlantic Ocean DPS, that a critical habitat designation is prudent, and that critical habitat is determinable. Per our joint regulations with USFWS, a designation is prudent because neither of the situations enumerated in 50 CFR 424.12(a)(1) exists here. Specifically, we find that a designation is not expected to increase the degree of threats to the species and will be beneficial to the species. Further, although NMFS and USFWS jointly determined at the time of the final listing rule in September 2011 (76 FR 58868) that habitat was not then determinable (per 16 U.S.C. 1533(b)(6)(C)(ii)), we find now, after review of the best available scientific information, that critical habitat for the Northwest Atlantic Ocean DPS is determinable because neither of the situations described in 50 CFR 424.12(a)(2) exists here.

When identifying proposed critical habitat, we do not include Naval Air Station Key West in accordance with section 4(a)(3) of the ESA because its INRMP provides benefits to the loggerhead sea turtle. We also do not include existing (already constructed) federally authorized or permitted man-made structures such as aids-to-navigation, boat ramps, platforms, docks, and pilings within the boundaries of critical habitat. Man-made structures in the context of this regulation refers to actually constructed materials or structures placed in, over, or near the water that are not used by loggerhead sea turtles as habitat. Because these structures are not useable as habitat, they are not essential to the conservation of the species and therefore do not constitute critical habitat. We do not refer to human altered elements of the habitat such as navigation channels or disposal areas. Such altered habitat would not be excluded. If the critical habitat is finalized as proposed, a Federal action involving excluded structures would not trigger section 7 consultation to examine effects to critical habitat and the duty to avoid destruction or adverse modification of designated critical habitat, unless the specific action would affect the physical or biological features in the adjacent critical habitat. We seek public comment on the exclusion of these structures and whether our exclusion should be expanded or narrowed in any way, including information on whether loggerhead sea turtles use such structures as habitat. The critical habitat areas described below constitute our best assessment at this time of areas that meet the definition of critical habitat in the marine environment for the Northwest Atlantic Ocean DPS of the loggerhead sea turtle.

The critical habitat areas described below constitute our best assessment at this time of areas that meet the definition of critical habitat in the marine environment for the Northwest Atlantic Ocean DPS of the loggerhead sea turtle.

Neritic Habitat: Neritic habitat includes nearshore reproductive habitat, foraging habitat, winter habitat, breeding habitat, and constricted migratory habitat. Nearshore reproductive habitat units are those directed at conserving hatchling swim frenzy and internesting turtle habitat directly off high density nesting beaches and beaches adjacent to them, as defined by USFWS in their proposed rule to designate critical habitat for the loggerhead sea turtle (78 FR 18000; March 25, 2013). Generally, the units include nearshore areas extending directly seaward from the coast 1.6 km from each end of the unit (in cases of long, straight beaches, such as many of those found along Florida's east coast). In the cases of beaches along islands or that wrap around into an inlet, we took the furthest point from the far end of the unit and extended out seaward. Where beaches are adjacent and within 1.6 km of each other, nearshore areas are connected, either along the shoreline or by delineating on GIS a straight line from the end of one beach to the beginning of another (either from island to island or across an inlet or the mouth of an estuary). Although generally following these rules, the exact delineation of each unit was determined individually because each was unique.

Specific unit descriptions are as follows. Some units combine two or more habitat types identified.

LOGG–N–1—North Carolina Constricted Migratory Corridor and Northern Portion of the North Carolina Winter Concentration Area: This unit contains constricted migratory and winter habitat. The unit includes the North Carolina constricted migratory corridor and the overlapping northern half of the North Carolina winter concentration area. We defined the constricted migratory corridor off North Carolina as the waters between 36° N. lat. and Cape Lookout (approximately 34.58° N) and from the shoreline (MHW) of the Outer Banks, North Carolina, barrier islands to the 200-m depth contour (continental shelf).

The constricted migratory corridor overlaps with the northern portion of winter concentration area off North Carolina. The western and eastern boundaries of winter habitat are the 20-m and 100-m contours, respectively. The northern boundary of winter habitat starts at Cape Hatteras (35°16′ N) in a straight latitudinal line between the 20- and 100-m depth contours and ends at Cape Lookout (approximately 34.58° N).

LOGG–N–2—Southern Portion of the North Carolina Winter Concentration Area: This unit contains winter habitat only. The boundaries include waters between the 20- and 100-m depth contours between Cape Lookout and Cape Fear. The western and eastern boundaries of winter habitat are the 20-m and 100-m depth contours, respectively. The northern boundary is Cape Lookout (approximately 34.58° N). The southern boundary is a 37.5-km line that extends from the 20-m depth contour at approximately 33.47° N, 77.58° W (off Cape Fear) to the 100-m depth contour at approximately 33.2° N, 77.32° W.

LOGG–N–3—Bogue Banks and Bear Island, Carteret and Onslow Counties, NC: This unit contains nearshore reproductive habitat only. The unit consists of nearshore area from Beaufort Inlet to Bear Inlet (crossing Bogue Inlet) from the MHW line seaward 1.6 km. This unit contains an area adjacent to high density nearshore reproductive habitat (Beaufort Inlet to Bogue Inlet) as well as an area of high density nearshore reproductive habitat (Bogue Inlet to Bear Inlet).

LOGG–N–4—Onslow Beach (Marine Corps Base Camp Lejeune), Topsail Island and Lea-Huttaf Islands, Onslow and Pender Counties, NC: This unit contains nearshore reproductive habitat only. The unit consists of nearshore area from Browns Inlet to Rich Inlet (crossing New River Inlet and New Topsail Inlet) from the MHW line seaward 1.6 km. This unit contains areas of high density nearshore reproductive habitat (Topsail Island) as well as areas adjacent to high density nearshore reproductive habitat (Onslow Beach and Lea-Hutaff Island).

LOGG–N–5—Pleasure Island, Bald Head Island, Oak Island, and Holden Beach, New Hanover and Brunswick Counties, NC: This unit contains nearshore reproductive habitat only. The unit consists of nearshore areas from Carolina Beach Inlet around Cape Fear to Shallotte Inlet (crossing the mouths of the Cape Fear River and Lockwoods Folly Inlet) from the MHW line seaward 1.6 km. This unit contains areas adjacent to high density nearshore

reproductive habitat (Pleasure Island and Holden Beach) and high density nearshore reproductive habitat (Bald Head Island and Oak Island) of loggerhead sea turtles in North Carolina.

LOGG–N–6—North, Sand, South and Cedar Islands, Georgetown County, SC; Murphy, Cape and Lighthouse Islands and Racoon Key, Charleston County, SC: This unit contains nearshore reproductive habitat only. The unit consists of nearshore area from North Inlet to Five Fathom Creek Inlet (crossing Winyah Bay, North Santee Inlet, South Santee Inlet, Cape Romain Inlet, and Key Inlet) from the MHW line seaward 1.6 km. This unit contains areas adjacent to high density nearshore reproductive habitat (North, Cedar and Murphy Islands and Raccoon Key) and high density nearshore reproductive habitat (Sand, South, Cape and Lighthouse Islands) of loggerhead sea turtles in South Carolina.

LOGG–N–7—Folly, Kiawah, Seabrook, Botany Bay Islands, Botany Bay Plantation, Interlude Beach and Edingsville Beach, Charleston County, SC; Edisto Beach State Park, Edisto Beach, and Pine and Otter Islands, Colleton County, SC: This unit contains nearshore reproductive habitat only. The unit consists of nearshore area from Lighthouse Inlet to Saint Helena Sound (crossing Folly River, Stono, Captain Sam's, North Edisto, Frampton, Jeremy, South Edisto and Fish Creek Inlets) from the MHW line seaward 1.6 km. This unit contains areas adjacent to high density nearshore reproductive habitat (Folly and Seabrook Islands, Interlude Beach, Edisto Beach, and Pine Island) and high density nearshore reproductive habitat (Kiawah and Botany Bay Islands, Botany Bay Plantation, Edingsville Beach, Edisto Beach State Park, and Otter Island) of loggerhead sea turtles in South Carolina.

LOGG–N–8—Harbor Island, Beaufort County, SC: This unit contains nearshore reproductive habitat only. The unit consists of nearshore area from Harbor Inlet to Johnson Inlet from the MHW line seaward 1.6 km. This unit is adjacent to high density nearshore reproductive habitat by loggerhead sea turtles in South Carolina.

LOGG–N–9—Little Capers, St. Phillips and Bay Point Islands, Beaufort County, SC: This unit contains nearshore reproductive habitat only. The unit consists of nearshore area from Pritchards Inlet to Port Royal Sound (crossing Trenchards Inlet and Morse Island Creek Inlet East) from the MHW line seaward 1.6 km. This unit consists of areas adjacent to high density nearshore reproductive habitat (Little Capers and Bay Point Islands) and high density nearshore reproductive habitat (St. Phillips Island) of loggerhead sea turtles in South Carolina.

LOGG–N–10—Little Tybee Island, Chatham County, GA: This unit contains nearshore reproductive habitat only. The boundaries of this unit are from Tybee Creek Inlet to Wassaw Sound from the MHW line seaward 1.6 km. This unit is adjacent to high density nearshore reproductive habitat of loggerhead sea turtles in Georgia.

LOGG–N–11—Wassaw Island, Chatham County, GA: This unit contains nearshore reproductive habitat only. The boundaries of the unit are from Wassaw Sound to Ossabaw Sound from the MHW line seaward 1.6 km. This unit contains high density nearshore reproductive habitat of loggerhead sea turtles in Georgia.

LOGG–N–12—Ossabaw Island, Chatham County, GA; St. Catherines Island, Liberty County, GA; Blackbeard and Sapelo Islands, McIntosh County, GA: This unit contains nearshore reproductive habitat only. The boundaries of this unit are nearshore areas from Ossabow Sound to Deboy Sound (crossing St. Catherines Sound, McQueen Inlet, Sapelo Sound, and Cabretta Inlet) from the MHW line seaward 1.6 km. This unit contains both high density nearshore reproductive habitat (Ossabaw and Blackbeard Islands), and areas adjacent to high density nearshore reproductive habitat (St. Catherines and Sapelo Islands) of loggerhead sea turtles in Georgia.

LOGG–N–13—Little Cumberland Island, Camden County, GA; Cumberland Island, Camden County, GA: This unit contains nearshore reproductive habitat only. The boundaries of this unit are nearshore areas from St. Andrew Sound to the St. Marys River (Crossing Christmas Creek) from the MHW line seaward 1.6 km. This unit contains both high density nearshore reproductive habitat (Cumberland Island) and areas adjacent to high density nearshore reproductive habitat (Little Cumberland Island) of loggerhead sea turtles in Georgia.

LOGG–N–14—Southern boundary of Kathryn Abbey Hanna Park, Duval County to Matanzas Inlet, St. Johns County, FL: This unit contains nearshore reproductive habitat only. The boundaries of the unit are nearshore areas from the southern boundary of Kathryn Abbey Hanna Park to Matanzas Inlet (crossing St. Augustine Inlet) from the MHW line seaward 1.6 km. This unit contains both high density nearshore reproductive habitat (Guana Tolomato Matanzas NERR to St. Augustine Inlet) and areas adjacent to high density nearshore reproductive habitat (South Duval County to Old Ponte Vedra, and St. Augustine Inlet to Matanzas Inlet) of loggerhead sea turtles in the Northern Florida Region of the Peninsular Florida Recovery Unit.

LOGG–N–15—Northern Boundary of River to Sea Preserve at Marineland, Flagler County, FL to Granada Blvd., Volusia County, FL: This unit contains nearshore reproductive habitat only. The boundaries of the unit are nearshore areas from the northern boundary of River to Sea Preserve at Marineland to Granada Boulevard in Ormond Beach from the MHW line seaward 1.6 km. This unit contains high density nearshore reproductive habitat in the Northern Florida Region of the Peninsular Florida Recovery Unit.

LOGG–N–16—Canaveral National Seashore to 28.70° N, 80.66° W near Titusville, Volusia and Brevard Counties, FL: This unit contains nearshore reproductive habitat only. Boundaries of the unit are nearshore areas from the north boundary of Canaveral National Seashore to 28.70° N, 80.66° W near Titusville (at the start of the Titusville—Floridana Beach concentrated breeding area) from the MHW line seaward 1.6 km. This unit contains both areas adjacent to high density nearshore reproductive habitat (northern boundary of Canaveral National Seashore to the Volusia-Brevard County line) and high density nearshore reproductive habitat (Volusia-Brevard County line to Titusville) of loggerhead sea turtles in the Central Eastern Florida Region of the Peninsular Florida Recovery Unit.

LOGG–N–17—Titusville to Floridana Beach Concentrated Breeding Area, Northern Portion of the Florida Constricted Migratory Corridor, Nearshore Reproductive Habitat from 28.70° N, 80.66° W near Titusville to Cape Canaveral Air Force Station, Brevard County, FL, and Nearshore Reproductive Habitat Patrick Airforce Base and Central Brevard Beaches, FL: This unit includes overlapping areas of nearshore reproductive habitat, constricted migratory habitat, and breeding habitat. The concentrated breeding habitat area is from the MHW line on shore at 28.70° N, 80.66° W near Titusville, out to depths less than 60 m (consistent with what is reported in Arendt *et al.* 2012a), and extending south to Floridana Beach. This overlaps with waters in the northern portion of the Florida constricted migratory corridor, which begins at the tip of Cape Canaveral Air Force Station and ends at Floridana beach, extending from the MHW line on shore to the 30-m depth contour line.

Additionally, the above two habitat areas overlap with two nearshore reproductive habitat areas. The first begins near Titusville at 28.70° N, 80.66° W to the south boundary of the Cape Canaveral Air Force Station/Canaveral Barge Canal Inlet from the MHW line seaward 1.6 km. The second begins at Patrick Air Force Base, Brevard County, through the central Brevard Beaches to Floridana Beach from the MHW line seaward 1.6 km. These nearshore reproductive areas contain high density nearshore reproductive habitat of loggerhead sea turtles in the Central Eastern Florida Region of the Peninsular Florida Recovery Unit.

LOGG–N–18—Florida Constricted Migratory Corridor from Floridana Beach to Martin County/Palm Beach County Line, FL; and Nearshore Reproductive Habitat from Floridana Beach to the south end of Indian River Shores; Brevard and Indian River Counties; and Nearshore Reproductive Habitat from the Fort Pierce inlet to Martin County/Palm Beach County Line, Sebastian and Martin Counties, FL: This unit contains nearshore reproductive habitat and constricted migratory habitat. The unit contains a portion of the Florida constricted migratory corridor, which is located in the nearshore waters from the MHW line on shore to the 30-m depth contour off Floridana Beach to the Martin County/Palm Beach County line. This overlaps with two nearshore reproductive habitat areas. The first nearshore reproductive area includes nearshore areas from Floridana Beach to the south end of Indian River Shores (crossing Sebastian Inlet) from the MHW line seaward 1.6 km. The second nearshore reproductive habitat area includes nearshore areas from Fort Pierce inlet to Martin County/Palm Beach County line (crossing St. Lucie Inlet) from the MHW line seaward 1.6 km. These nearshore reproductive areas contain high density nearshore reproductive habitat (Floridana to Sebastian Inlet and Fort Pierce Inlet to the Martin County/Palm Beach County line) and areas adjacent to high density nearshore reproductive habitat (Sebastian Inlet to Indian River Shores) by loggerhead sea turtles in the Central Eastern Florida Region of the Peninsular Florida Recovery Unit.

LOGG–N–19—Southern Florida Constricted Migratory Corridor; Southern Florida Concentrated Breeding Area; and Nearshore Reproductive Areas of Martin County/Palm Beach County line to Hillsboro Inlet, Palm Beach and Broward Counties, FL); and Long Key, Bahia Honda Key, Woman Key, Boca Grande Key, and Marquesas Keys, Monroe County, FL: This unit contains nearshore reproductive habitat, constricted migratory habitat, and breeding habitat. The unit contains the southern Florida constricted migratory corridor habitat, overlapping southern Florida breeding habitat, and overlapping nearshore reproductive habitat. The southern portion of the Florida concentrated breeding area and the southern Florida constricted migratory corridor are both located in the nearshore waters starting at the Martin County/Palm Beach County line to the westernmost edge of the Marquesas Keys (82.17° W. long.), with the exception of the waters under the jurisdiction of NAS Key West. The seaward border then follows the 200-m depth contour line to the westernmost edge at the Marquesas Keys.

The nearshore reproductive habitat includes (1) Nearshore waters starting at the Martin County/Palm Beach County line to Hillsboro Inlet (crossing Jupiter, Lake Worth, Boynton and Boca Raton Inlets) from the MHW line seaward 1.6 km; (2) Long Key, which is bordered on the east by the Atlantic Ocean, on the west by Florida Bay, and on the north and south by natural channels between Keys (Fiesta Key to the north and Conch Key to the south), and has boundaries following the borders of the island from the MHW line and seaward to 1.6 km; (3) Bahia Honda Key, from the MHW line seaward 1.6 km; (4) Woman Key, from the MHW line seaward 1.6 km; (5) Boca Grande Key, from the MHW line seaward 1.6 km; (6) the Marquesas Keys unit boundary, including nearshore areas from the MHW line and seaward to 1.6 km from four islands where loggerhead sea turtle nesting has been documented within the Marquesas Keys: Marquesas Key, Unnamed Key 1, Unnamed Key 2, and Unnamed Key 3.

These nearshore reproductive unit from the Martin County/Palm Beach County line to Hillsboro Inlet contains both high density nearshore reproductive habitat (Jupiter Inlet to Boynton Inlet (crossing Lake Worth Inlet), and Boca Raton Inlet to Hillsboro Inlet) and areas adjacent to high density nearshore reproductive habitat (Boynston Inlet to Boca Raton Inlet). The nearshore reproductive habitat units in the Florida Keys (Long Key and Bahia Honda Key) were included to ensure conservation of nearshore reproductive habitat off of the unique nesting habitat in the Florida Keys. Woman and Boca Grande Keys and the Marquesas Keys are part of the Dry Tortugas Recovery Unit and were included because of the extremely small size of the Dry Tortugas Recovery Unit.

LOGG–N–20—Dry Tortugas, Monroe County, FL: This unit contains nearshore reproductive habitat only. The unit boundary includes nearshore areas from the MHW line and seaward to 1.6 km from six islands where loggerhead sea turtle nesting has been documented within the Dry Tortugas. From west to east, these six islands are: Loggerhead Key, Garden Key, Bush Key, Long Key, Hospital Key, and East Key. This unit was included because of the extremely small size of the Dry Tortugas Recovery Unit.

LOGG–N–21—Cape Sable, Monroe County, FL: This unit contains nearshore reproductive habitat only. The boundaries of the unit are nearshore areas from the MHW line and seaward to 1.6 km from the north boundary of Cape Sable to the south boundary of Cape Sable. This unit contains high density nearshore reproductive habitat of loggerhead sea turtles in the Southwestern Florida Region of the Peninsular Florida Recovery Unit.

LOGG–N–22—Graveyard Creek to Shark Point, Monroe County, FL: This unit contains nearshore reproductive habitat only. The boundaries of this unit are nearshore areas from Shark Point (25.387949, −81.149308) to Graveyard Creek Inlet from the MHW line seaward 1.6 km. This unit contains high density nearshore reproductive habitat of loggerhead sea turtles in the Southwestern Florida Region of the Peninsular Florida Recovery Unit.

LOGG–N–23—Highland Beach, Monroe County, FL: This unit contains nearshore reproductive habitat only. The boundaries of this unit are from First Bay to Rogers River Inlet from the MHW line seaward 1.6 km. This unit contains areas adjacent to high density nearshore reproductive habitat of loggerhead sea turtles in the Southwestern Florida Region of the Peninsular Florida Recovery Unit.

LOGG–N–24—Ten Thousand Islands North, Collier County, FL: This unit contains nearshore reproductive habitat only. The unit includes nearshore areas from the MHW line seaward 1.6 km of nine keys where loggerhead sea turtle nesting has been documented within the northern part of the Ten Thousand Islands in Collier County in both the Ten Thousand Islands NWR and the Rookery Bay NERR. This unit contains areas adjacent to high density nearshore reproductive habitat of loggerhead sea turtles in the Southwestern Florida Region of the Peninsular Florida Recovery Unit.

LOGG–N–25—Cape Romano, Collier County, FL: This unit contains nearshore reproductive habitat only. The boundaries of the unit are nearshore

areas from Caxambas Pass to Gullivan Bay from the MHW line seaward 1.6 km. This unit contains areas adjacent to high density nearshore reproductive habitat of loggerhead sea turtles in the Southwestern Florida Region of the Peninsular Florida Recovery Unit.

LOGG–N–26—Keewaydin Island and Sea Oat Island, Collier County, FL: This unit contains nearshore reproductive habitat only. The boundaries of the unit are nearshore areas from Gordon Pass to Big Marco Pass from the MHW line seaward 1.6 km. This unit contains areas of high density nearshore reproductive habitat of loggerhead sea turtles in the Southwestern Florida Region of the Peninsular Florida Recovery Unit.

LOGG–N–27—Little Hickory Island to Doctors Pass, Lee and Collier Counties, FL: This unit contains nearshore reproductive habitat only. The boundaries of the unit are nearshore areas from Little Hickory Island to Doctors Pass (crossing Wiggins Pass and Clam Pass) from the MHW line seaward 1.6 km. This unit contains areas adjacent to high density nearshore reproductive habitat of loggerhead sea turtles in the Southwestern Florida Region of the Peninsular Florida Recovery Unit.

LOGG–N–28—Captiva Island and Sanibel Island West, Lee County, FL: This unit contains nearshore reproductive habitat only. The boundaries of the unit are nearshore areas from the north end of Captiva/Captiva Island Golf Club (starting at Redfish Pass and crossing Blind Pass) and along Sanibel Island West to Tarpon Bay Road from the MHW line seaward 1.6 km. This unit contains both high density nearshore reproductive habitat (Sanibel Island West) and areas adjacent to high density nearshore reproductive habitat (Captiva Island) of loggerhead sea turtles in the Central Western Florida Region of the Peninsular Florida Recovery Unit.

LOGG–N–29—Siesta and Casey Keys, Sarasota Count, FL; Venice Beaches and Manasota Key, Sarasota and Charlotte Counties, FL; Knight, Don Pedro, and Little Gasparilla Islands, Charlotte County, FL; Gasparilla Island, Charlotte and Lee Counties, FL; Cayo Costa, Lee County, FL: This unit contains nearshore reproductive habitat only. The boundaries of this unit are nearshore areas from Big Sarasota Pass to Cativa Pass (crossing Venice Inlet, Stump Pass, Gasparilla Pass, and Boca Grande Pass) from the MHW line seaward 1.6 km. This unit contains both high density nearshore reproductive habitat (Siesta and Casey Keys; Venice Beaches and Manasota Key; and Knight, Don Pedro, and Little Gasparilla Islands) and areas adjacent to high density nearshore reproductive habitat (Cayo Costa) of loggerhead sea turtles in the Central Western Florida Region of the Peninsular Florida Recovery Unit.

LOGG–N–30—Longboat Key, Manatee and Sarasota Counties, FL: This unit contains nearshore reproductive habitat only. The boundaries of this unit are the north point of Longboat Key at Longboat Pass to New Pass from the MHW line seaward 1.6 km. This unit is adjacent to high density nearshore reproductive habitat of loggerhead sea turtles in the Central Western Florida Region of the Peninsular Florida Recovery Unit.

LOGG–N–31—St. Joseph Peninsula, Cape San Blas, St. Vincent, Little St. George, St. George, and Dog Islands, Gulf and Franklin Counties, FL: This unit contains nearshore reproductive habitat only. The boundaries of this unit are from St. Joseph Bay to St. George Sound (including Eglin Air Force Base and crossing Indian, West, and East Passes) from the MHW line seaward 1.6 km. This unit contains both areas adjacent to high density nearshore reproductive habitat (Cape San Blas, St. George Island and Dog Island) and high density nearshore reproductive habitat (St. Joseph Peninsula, St. Vincent Island, Little St. George Island) of loggerhead sea turtles in the Florida portion of the Northern Gulf of Mexico Recovery Unit.

LOGG–N–32—Mexico Beach and St. Joe Beach, Bay and Gulf Counties, FL: This unit contains nearshore reproductive habitat only. The boundaries of the unit are from the eastern boundary of Tyndall Air Force Base to Gulf County Canal in St. Joseph Bay from the MHW line seaward 1.6 km. This unit is adjacent to high density nearshore reproductive habitat of loggerhead sea turtles in the Florida portion of the Northern Gulf of Mexico Recovery Unit.

LOGG–N–33—Gulf State Park to Pensacola Pass, Baldwin County, AL and Escambia County, FL: This unit contains nearshore reproductive habitat only. The boundaries of the unit are nearshore areas from the west boundary of Gulf State Park to the Pensacola Pass (crossing Perdido Pass and the AL–FL border) from the MHW line seaward 1.6 km. This unit contains both high density nearshore reproductive habitat (Gulf State Park to Perdido Pass) and areas adjacent to high density nearshore reproductive habitat (Perdido Pass to Pensacola Pass) of loggerhead sea turtles in the Alabama and Florida portions of the Northern Gulf of Mexico Recovery Unit.

LOGG–N–34—Mobile Bay — Little Lagoon Pass, Baldwin County, AL: This unit contains nearshore reproductive habitat only. The boundaries of the unit are nearshore areas from Mobile Bay Inlet to Little Lagoon Pass from the MHW line seaward 1.6 km. This unit contains high density nearshore reproductive habitat of loggerhead sea turtles in the Alabama portion of the Northern Gulf of Mexico Recovery Unit.

LOGG–N–35—Petit Bois Island, Jackson County, MS: This unit contains nearshore reproductive habitat only. The boundaries of the unit are nearshore areas from Horn Island Pass to Petit Bois Pass from the MHW line seaward 1.6 km. This unit was selected because it is one of two islands with the greatest number of nests in the Mississippi portion of the Northern Gulf of Mexico Recovery Unit.

LOGG–N–36—Horn Island, Jackson County, MS: This unit contains nearshore reproductive habitat only. The boundaries of the unit are nearshore areas from Dog Keys Pass to the eastern most point of the ocean facing island shore from the MHW line seaward 1.6 km. This unit was selected because it is one of two islands with the greatest number of nests in the Mississippi portion of the Northern Gulf of Mexico Recovery Unit.

Oceanic Habitat. If *Sargassum* habitat is included in the final rule, it would likely include oceanic habitat as described above.

North Pacific Ocean DPS

After reviewing the best available scientific information, we conclude that no specific areas exist within U.S. jurisdiction that meet the definition of critical habitat for the North Pacific Ocean DPS. We did not identify any critical habitat within the U.S. EEZ in the Pacific Ocean for the North Pacific Ocean DPS because occupied habitat within the U.S. EEZ did not support suitable conditions in sufficient quantity and frequency to provide meaningful foraging, development, and/or transiting opportunities to the population in the North Pacific Ocean.

Unoccupied Areas

Section 3(5)(A)(ii) of the ESA authorizes designation of ''specific areas outside the geographical areas occupied by the species at the time it is listed'' if those areas are determined to be essential to the conservation of the species. Joint NMFS and USFWS regulations (50 CFR 424.12(e)) emphasize that the agency shall designate as critical habitat areas outside the geographical area presently occupied by a species only when a

designation limited to its present range would be inadequate to ensure the conservation of the species. At the present time we have not identified additional specific areas outside the geographic area occupied by loggerheads at the time of their listing that may be essential for the conservation of the species.

Application of Section 4(a)(3) of the ESA

The ESA precludes the Secretary from designating military lands as critical habitat if those lands are subject to an INRMP under the Sikes Act Improvement Act of 1997 (Sikes Act; 16 U.S.C. 670a) and the Secretary certifies in writing that the plan benefits the listed species (Section 4(a)(3), Pub. L. 108–136).

NMFS has determined that the INRMP for NAS Key West confers benefits to the loggerhead sea turtle and enhances its habitat, and therefore is not proposing the waters subject to that INRMP for critical habitat designation. Management actions described in the NAS Key West INRMP that benefit loggerhead sea turtles include water quality measures, invasive species control, re-establishment of historic tidal connections for mangrove/saltmarsh and shallow open water (including areas containing seagrasses), completion of a marine benthic survey, installation of turtle-friendly lights, and community outreach and information.

We are proposing as critical habitat the waters off Onslow Beach on MCB Camp Lejeune, North Carolina; however, we are holding discussions with the U.S. Marine Corps regarding this INRMP, and may revisit this determination prior to finalizing this proposed rule.

ESA Section 4(b)(2) Analysis

Section 4(b)(2) of the ESA states that the Secretary shall designate and make revisions to critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat (16 U.S.C. section 1533(b)(2)). In addition to this mandatory consideration of impacts set out in the first sentence of section 4(b)(2), the second sentence gives the Secretary discretion to go further and proceed to an optional weighing of the benefits of including a particular area against the benefits of excluding such an area. The Secretary may exclude an area from critical habitat if s/he determines that the benefits of such exclusion (avoiding the economic, national security, or other costs) outweigh the benefits of specifying such area as part of the critical habitat (the conservation benefits to the species), unless s/he determines, based on the best scientific data available, that the failure to designate such area as critical habitat will result in the extinction of the species (16 U.S.C. 1533(b)(2)). In making that determination, the statute, as well as the legislative history, are clear that the Secretary has broad discretion regarding whether to proceed to the optional weighing of benefits, which factor(s) to use, how much weight to give to any factor, and whether or not to exclude any area.

Benefits of Inclusion

The benefits of designating specific areas include the protection afforded under section 7(a)(2) of the ESA, requiring all Federal agencies to ensure that their actions are not likely to destroy or adversely modify critical habitat. This is in addition to the requirement that all Federal agencies ensure that their actions are not likely to jeopardize the continued existence of the species. The designation of critical habitat also provides conservation benefits such as improved education and outreach by informing the public about areas and features important to species conservation, as well as additional protections under state and local authorities.

We find that, because the PBFs and PCEs of the proposed habitat inherently focus on the areas that best support the needs of the species (i.e., those that support meaningful aggregations of the species) and the areas were selected expressly to ensure maximum consistency with the goals in the species' recovery plan, each of the proposed areas is of high conservation value.

Economic Benefits of Exclusion

According to the draft Economic Analysis, the total estimated present value of the quantified impacts is $830,000 over the next 10 years. On an annualized basis, this is equivalent to impacts of $95,000 (IEc 2013). The quantified impacts of designation are the same as the economic benefits of exclusion. Costs for each unit can be found in Exhibit 1 of the draft Economic Analysis (IEc 2013). Impacts are anticipated to be greatest in LOGG–N–19 (25 percent or $24,200 annually), a large unit that extends from Martin County/Palm Beach County line to the Marquesas Keys in Monroe County, and which includes several nearshore reproductive areas as well as the southern-most constricted migratory corridor and concentrated breeding habitat in Florida. These costs are due primarily to the frequency of consultations anticipated for in-water construction, dredging, and sediment disposal activities, but also to the size of the unit relative to most of the other units. Impacts in the Atlantic *Sargassum* habitat unit, LOGG–S–01 (23 percent or $22,000) and the Gulf of Mexico *Sargassum* unit, LOGG–S–02 (13 percent, or $12,000) reflect the very large size of these units, rather than the potential for activities to adversely affect this habitat type in particular. The majority of anticipated impacts are administrative costs associated with consultation on nearshore and in-water construction, dredging, and sediment disposal activities (63 percent) and fisheries and related activities (33 percent). The draft Economic Analysis describes in more detail the types of activities that may be affected by the designation and the estimated relative level of economic impacts (IEc 2013).

The highest estimated annual economic cost associated with the designation of loggerhead critical habitat is $25,000 for a large unit, LOGG–N–19, and the estimated cost associated with the designation of most units as critical habitat is below $1,000. Because these numbers are so low, all units are considered to have a ''low'' economic impact. Typically, to be considered ''high,'' an economic value would need to be above several million dollars (sometimes tens of millions), and ''medium'' may fall between several hundred thousand and millions of dollars.

Exclusions of Particular Areas Based on Economic Impacts

Because all units identified for loggerheads have a high conservation value and a low economic impact, no areas were considered for exclusion based on economic impacts. Because no areas are recommended for exclusion, we do not need to make the further consideration of whether exclusions would result in the extinction of the Northwest Atlantic Ocean DPS of the loggerhead sea turtle.

Exclusions Based on Impacts to National Security

The Secretary must consider possible impacts to national security when determining critical habitat (16 U.S.C. 1533(b)(2)). We shared the draft Biological Report with the Departments of the Navy (including Marine Corps), Army, Air Force and the Department of Homeland Security. The Navy and Air Force provided comments and shared concerns about portions of the breeding area in LOGG–N–17 (the Trident

Submarine Basin, other basins and the portion of the navigation channel, inlet, and Canaveral Barge Canal). This unit, which represented a minimal convex polygon delineating breeding habitat that was adopted from Arendt (2012a), was re-examined with Arendt and others to ensure its borders were appropriate for a critical habitat unit, as there were questions as to whether the channel, basins, Banana River and a portion of the Indian River Lagoon truly represented critical breeding habitat. The western extent of LOGG–N–17 was adjusted, based on input from the Navy and Air Force, to follow the shoreline instead of going into the Port and the Indian River Lagoon and Banana River. Although we did not adjust this boundary for national security reasons, per se, we agreed that these basins, rivers and canal, were not critical to loggerhead breeding.

Discussions with the Navy indicated that there is overlap between the areas proposed for critical habitat and Navy activities. However, we do not believe that these activities, as currently conducted, are the types of activities that may affect or adversely modify critical habitat proposed for the loggerhead sea turtle or its PBF/PCEs. As a result, we conclude that Navy activities are not likely to be affected by this proposed designation, and the designation would not affect national security.

Department of Homeland Security (DHS) marine vessels routinely conduct patrol activities in areas proposed for critical habitat. These patrol activities support DHS's national security mission. The patrols involve vessels that are typically smaller than Navy vessels. We do not believe that these activities, as currently conducted, are the types of activities that may affect or adversely modify critical habitat proposed for the loggerhead sea turtle or its PBF/PCEs. Therefore, we conclude that DHS activities are not likely to be affected by this proposed designation, and the designation would not affect national security.

No additional national security concerns have been raised at this time; therefore, we have not excluded any areas due to national security concern. We can revisit this determination.

Exclusions for Indian Lands

No Indian lands occur in the areas being recommended for designation, and no Indian activities are anticipated to be affected by designation. Therefore no exclusions are recommended for Indian Lands.

Critical Habitat Designation

We proposed to designate 36 occupied marine areas of critical habitat for the Northwest Atlantic Ocean DPS. These areas contain one or a combination of nearshore reproductive habitat, winter area, breeding areas, and constricted migratory corridors, and two areas that contain *Sargassum* habitat. The proposed critical habitat areas contain the PBFs essential to the conservation of the species that may require special management considerations or protection. We do not propose to exclude any areas based on economic impacts and do not propose to exclude any areas based on national security concerns at this time but can revisit this determination.

Effects of Critical Habitat Designation

Section 7(a)(2) of the ESA requires Federal agencies to insure that any action authorized, funded, or carried out by the agency (agency action) does not jeopardize the continued existence of any threatened or endangered species or destroy or adversely modify designated critical habitat (16 U.S.C. 1536(a)(2)). Federal agencies are also required to confer with us and USFWS regarding any actions likely to jeopardize a species proposed for listing under the ESA, or likely to destroy or adversely modify proposed critical habitat, pursuant to section 7(a)(4) (16 U.S.C. 1536(a)(4)). A conference involves informal discussions in which we may recommend conservation measures to minimize or avoid adverse effects. The discussions and conservation recommendations are to be documented in a conference report provided to the Federal agency undertaking the action at issue. If requested by the Federal agency, a formal conference report may be issued, including a biological opinion prepared according to 50 CFR 402.14. A formal conference report may be adopted as the biological opinion when the species is listed or critical habitat designated, if no significant new information or changes to the action alter the content of the opinion. When a species is listed or critical habitat is designated, Federal agencies must consult with NMFS on any agency actions they authorize, fund, or carry out that may affect the species or its critical habitat (16 U.S.C. 1536(a)(2)). During the consultation, we evaluate the agency action to determine whether the action may adversely affect listed species or critical habitat and issue our findings in a biological opinion or, if appropriate, in a letter concurring with a finding of the action agency that their action is not likely to adversely affect the species. If we conclude in the biological opinion that the agency action would likely result in the destruction or adverse modification of critical habitat, we would also recommend any reasonable and prudent alternatives to the action. 16 U.S.C. 1536(b)(4)(2). Reasonable and prudent alternatives (defined in 50 CFR 402.02) are alternative actions identified during formal consultation that can be implemented in a manner consistent with the intended purpose of the action, that are consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that would avoid the destruction or adverse modification of critical habitat. Regulations (50 CFR 402.16) require Federal agencies that have retained discretionary involvement or control over an action, or where such discretionary involvement or control is authorized by law, to reinitiate consultation on previously reviewed actions in instances where (1) critical habitat is subsequently designated, or (2) new information or changes to the action may result in effects to critical habitat not previously considered in the biological opinion. Consequently, some Federal agencies may request reinitiation of a consultation or conference with us on actions for which formal consultation has been completed, if those actions may affect designated critical habitat or adversely modify or destroy proposed critical habitat.

Activities subject to the ESA section 7 consultation process include Federal activities and non-Federal activities requiring a permit from a Federal agency (e.g., a Clean Water Act, Section 404 dredge or fill permit from the U.S. Army Corps of Engineers (USACE)) or some other Federal action, including funding (e.g., Federal Highway Administration funding for transportation projects). ESA section 7 consultation would not be required for Federal actions that do not affect listed species or critical habitat and for non-Federal activities or activities on non-federal and private lands that are not federally funded, authorized, or carried out.

Activities That May Be Affected

ESA section 4(b)(8) requires in any proposed or final rule to designate critical habitat an evaluation and brief description, to the maximum extent practicable, of those activities that may adversely modify such habitat or that may be affected by the designation. A wide variety of activities may affect the proposed critical habitat and may be subject to the ESA section 7

consultation process when carried out, funded, or authorized by a Federal agency. These include (1) Nearshore and in-water construction, dredging, and sediment disposal, such as construction and maintenance of offshore structures such as breakwaters, groins, jetties, and artificial reefs; construction and maintenance of transportation projects (e.g., bridges) and utility projects; dredging and sediment disposal; channel blasting; (2) fisheries management, such as Federal commercial fisheries and related activities; (3) oil and gas exploration and development, such as decommissioning of old oil and gas platforms, construction of nearshore oil and gas platforms, oil and gas activity transport in the nearshore environment; (4) renewable energy projects, such as ocean thermal energy, wave energy, and offshore wind energy; (5) some military activities, such as in-water training and research; and (6) aquaculture, such as marine species propagation.

For ongoing activities, we recognize that designation of critical habitat may trigger reinitiation of past consultations. In most cases, we do not anticipate the outcome of reinitated consultation to require significant additional conservation measures, because effects to habitat would likely have been assessed in the original consultation. We commit to working closely with other Federal agencies to implement these reinitiated consultations in an efficient and streamlined manner that, as much as possible and consistent with our statutory and regulatory obligations, minimizes the staff and resource burden and recognizes existing habitat conservation measures from previously completed ESA consultations. Further, we will continue to work with other agencies to refine and revise cost estimates associated with such consultations.

Information Quality Act and Peer Review

The data and analyses supporting this proposed action have undergone a pre-dissemination review and have been determined to be in compliance with applicable information quality guidelines implementing the Information Quality Act (IQA) (Section 515 of Public Law 106–554). In December 2004, the Office of Management and Budget (OMB) issued a Final Information Quality Bulletin for Peer Review pursuant to the IQA. The Bulletin established minimum peer review standards, a transparent process for public disclosure of peer review planning, and opportunities for public participation with regard to certain types of information disseminated by the Federal Government. The peer review requirements of the OMB Bulletin apply to influential or highly influential scientific information disseminated on or after June 16, 2005. To satisfy our requirements under the OMB Bulletin, we obtained independent peer review of the draft Biological Report (NMFS 2013) that supports the proposal to designate critical habitat for the loggerhead sea turtle and incorporated the peer review comments prior to dissemination of this proposed rulemaking.

Public Comments Solicited

We solicit comments or suggestions from the public, other concerned governments and agencies, the scientific community, industry, non-governmental organizations, or any other interested party concerning the proposed designation, the biological report, the draft Economic Analysis and its appended IRFA analysis. We are particularly interested in comments and information in the following areas: (1) Information on foraging areas that could be considered for critical habitat designation, including the PBFs and PCEs of these areas (see the foraging habitat discussion in the ''Description of Physical or Biological Features and Primary Constituent Elements and Identification of Specific Sites'' section for further detail); (2) comments on whether to include *Sargassum* habitat as critical habitat and, if so, whether we should include the entire areas, features, and elements described and mapped in the ''Description of Physical or Biological Features and Primary Constituent Elements and Identification of Specific Sites'' section, information on specific areas that frequently encompass convergence zones, surface-water downwelling areas and/or other locations where concentrated components of the *Sargassum* community are likely to be found in the Atlantic Ocean and Gulf of Mexico in order to delimit more accurately and precisely potential *Sargassum* critical habitat, and information on times of year or areas that loggerheads are most likely to co-occur with *Sargassum* habitat, (3) information on potential impacts, including conservation benefits and economic and other costs, of designating *Sargassum* critical habitat that may have been overlooked; (4) comments on critical habitat units proposed for designation or those overlooked, including PBFs and PCEs of these areas, particularly for breeding areas; (5) comments on the methodology underlying our approach to focus on areas supporting the most meaningful usage by the species and to ensure geographic representation of areas to ensure consistency with the recovery plan; (6) comments regarding any areas we may have overlooked that would meet the definition of critical habitat for the North Pacific Ocean DPS; (7) information on other impacts to PBFs or PCEs that may require special management considerations or protection; (8) information regarding potential benefits or impacts of designating any particular area proposed as critical habitat, including information on the types of Federal actions that may trigger an ESA section 7 consultation and may either affect the area's PBFs or require modifications of those activities; (9) information regarding the benefits of excluding a particular area from critical habitat, including on the basis of economic impacts or national security concerns; (10) information regarding the benefits of excluding existing manmade structures from critical habitat, whether the waters below such structures should likewise be excluded from designation (including potential impacts and costs of requiring consultation to such areas by including them in the designation), and whether the exclusion of existing manmade structures should be expanded or narrowed in a way; (11) current or planned activities in the areas proposed as critical habitat and costs of potential modifications to those activities due to critical habitat designation; and (12) any foreseeable economic, national security, or other relevant impact resulting from the proposed designation. You may submit your comments and materials concerning this proposal by any one of several methods (see **ADDRESSES**). Copies of the proposed rule and supporting documentation can be found on the NMFS Web site at *http://www.nmfs.noaa.gov/pr/species/turtles/loggerhead.htm.* We will consider all comments pertaining to this designation received during the comment period in preparing the final rule. Accordingly, the final decision may differ from this proposal.

Public Hearings

Joint NMFS and USFWS regulations (50 CFR 424.16(c)(3)) state that the Secretary shall promptly hold at least one public hearing if any person requests one within 45 days of publication of a proposed rule to list a species or to designate critical habitat. Public hearings provide the opportunity for interested individuals and parties to give comments, exchange information and opinions, and engage in a constructive dialogue concerning this

proposed rule. We encourage the public's participation and involvement in ESA matters. Requests for public hearings must be made in writing (see **ADDRESSES**) by September 3, 2013. If a public hearing is requested, a notice detailing the specific hearing location and time will be published in the **Federal Register** at least 15 days before the hearing is to be held. Information on the specific hearing locations and times will also be posted on our Web site at: *http://www.nmfs.noaa.gov/pr/species/turtles/loggerhead.htm.*

Classification

Regulatory Planning and Review

The Office of Management and Budget (OMB) has determined that this proposed rule is significant under Executive Order 12866. A draft Economic Analysis and 4(b)(2) analysis as set forth herein have been prepared to support the exclusion process under section 4(b)(2) of the ESA.

National Environmental Policy Act

We have determined that an environmental analysis as provided for under the National Environmental Policy Act of 1969 for critical habitat designations made pursuant to the ESA is not required. See *Douglas County* v. *Babbitt,* 48 F.3d 1495 (9th Cir. 1995), cert. Denied, 116 S.Ct 698 (1996).

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency publishes a notice of rulemaking for any proposed or final rule (other than one regarding the listing of a species under the Endangered Species Act), it must prepare and make available for public comment a regulatory flexibility analysis describing the effects of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). We have prepared an initial regulatory flexibility analysis (IRFA), which is an appendix to the draft Economic Analysis. This document is available upon request (*see* **ADDRESSES**) and via our Web site *http://www.nmfs.noaa.gov/pr/species/turtles/loggerhead.htm,* or via the Federal eRulemaking Web site at *http://www.regulations.gov.* The results of the IRFA are summarized below.

The action is being considered by the agency because it is required by the Endangered Species Act (16 U.S.C. 1531 *et seq.*). In 2011, NMFS and USFWS published a joint rulemaking revising the species' listing from a single, worldwide threatened species to nine DPSs. The two DPSs occurring in U.S. jurisdiction are the Northwest Atlantic Ocean DPS and the North Pacific Ocean DPS. Critical habitat can only be designated in areas under U.S. jurisdiction. The 2011 revised listing rule precipitated the proposed critical habitat designation for the Northwest Atlantic Ocean DPS and the proposed determination not to designate critical habitat for the North Pacific Ocean DPS.

The objective of the rule is to utilize the best scientific and commercial information available to designate critical habitat for the loggerhead sea turtle to best meet the conservation needs of the species in order to meet recovery goals. Section 4(b)(2) of the Act requires NMFS to designate critical habitat for threatened and endangered species ''on the basis of the best scientific data available and after taking into consideration the economic impact, impact on national security, and any other relevant impact, of specifying any particular area as critical habitat.''

Three types of small entities are defined in the IRFA: (1) Small business, (2) small governmental jurisdiction; and (3) small organization. The regulatory mechanism through which critical habitat protections are enforced is section 7 of the Act, which directly regulates only those activities carried out, funded, or permitted by a Federal agency. By definition, Federal agencies are not considered small entities, although the activities they may fund or permit may be proposed or carried out by small entities. This analysis considers the extent to which this designation could potentially affect small entities, regardless of whether these entities would be directly regulated by NMFS through the proposed rule or by a delegation of impact from the directly regulated entity.

The IRFA focuses on small entities that may bear the incremental impacts of this rulemaking quantified in chapters 3 through 6 of the draft Economic Analysis on four categories of economic activity potentially requiring modification to avoid destruction or adverse modification of loggerhead sea turtle critical habitat. Small entities also may participate in ESA section 7 consultation as an applicant or may be affected by a consultation if they intend to undertake an activity that requires a permit, license or funding from the Federal Government. It is therefore possible that the small entities may spend additional time considering critical habitat during section 7 consultation for the loggerhead sea turtle. Potentially affected activities include: Nearshore and in-water construction, dredging and disposal, fisheries, oil and gas exploration and development, and alternative energy projects.

Estimated impacts to small entities are summarized by industry in Exhibit A–1 of the IRFA. Exhibit A–2 of the IRFA describes potentially affected small businesses by NAICS code, highlighting the relevant small business thresholds. Although businesses affected indirectly are considered, this analysis considers only those entities for which impacts would not be measurably diluted; i.e., it focuses on those entities that may bear some additional costs associated with participation in section 7 consultation.

Based on the number of past consultations and information about potential future actions likely to take place within proposed critical habitat areas, this analysis forecasts the number of additional consultations that may take place as a result of critical habitat (see Chapters 3 through 6 of the draft Economic Analysis). Based on this forecast, annual incremental consultation costs that may be borne by third parties are forecast at $27,200 (discounted at seven percent), some portion of which may be borne by small entities.

Ideally this analysis would directly identify the number of small entities which may engage in activities that overlap with the proposed designation; however, while NMFS tracks the Federal agency that is involved in the consultation process, it does not track the identity of past permit recipients or the particulars that would allow NMFS to determine whether the recipients were small entities. Nor does NMFS track how often Federal agencies have hired small entities to complete various actions associated with these consultations. In the absence of this information, this analysis utilizes Dun and Bradstreet databases to determine the number of small businesses operating within the NAICS codes identified in Exhibit A–3 in each county with marine coastline in the proposed designation. Exhibit A–4 presents the potentially affected small counties.

The proposed rule does not directly mandate ''reporting'' or ''record keeping'' within the meaning of the Paperwork Reduction Act (PRA), and does not impose record keeping or reporting requirements on small entities. A critical habitat designation would require that Federal agencies initiate a section 7 consultation to insure their actions do not destroy or adversely modify critical habitat. During formal section 7 consultation under the

ESA, NMFS, the action agency (Federal agency), and a third party participant applying for Federal funding or permitting, may communicate in efforts to minimize potential adverse impacts to the habitat and/or the essential features. Communication may include written letters, phone calls, and/or meetings. Project variables such as the type of consultation, the location, impacted essential features, and activity of concern, may in turn dictate the complexity of these interactions. Third party costs may include administrative work, such as cost of time and materials to prepare for letters, calls, or meetings. The cost of analyses related to the activity and associated reports may be included in these administrative costs. In addition, following the section 7 consultation process, entities may be required to monitor progress during the said activity to ensure that impacts to the habitat and features have been minimized.

An IRFA must identify any duplicative, overlapping, and conflicting Federal rules. The protection of listed species and habitat under critical habitat may overlap other sections of the Act. The protections afforded to threatened and endangered species and their habitat are described in section 7, 9, and 10 of the ESA. A final determination to designate critical habitat requires Federal Agencies to consult, pursuant to section 7 of the ESA, with NMFS on any activities the Federal agency funds, authorizes, or carries out, including permitting, approving, or funding non-Federal activities (e.g., a Clean Water Act, Section 404 dredge or fill permit from USACE). The requirement to consult is to ensure that any Federal action authorized, funded, or carried out will not likely jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of critical habitat. The incremental impacts forecast in this report and contemplated in this IRFA are expected to result from the critical habitat designation and not other Federal regulations.

In accordance with the requirements of the RFA (as amended by SBREFA, 1996) this analysis considers various alternatives to the proposed critical habitat designation for the loggerhead sea turtle. The alternative of not designating critical habitat for the loggerhead sea turtle was considered and rejected because such an approach does not meet the legal requirements of the ESA. Section 4(b)(2) of the Act allows the NMFS to exclude areas proposed for designation based on economic impact and other relevant impacts. Therefore, an alternative to the proposed designation is the designation of a subset of these areas or portions of the various habitat types.

Coastal Zone Management Act

Section 307(c)(1) of the Federal Coastal Zone Management Act of 1972 requires that all Federal activities that affect the land or water use or natural resource of the coastal zone be consistent with approved state coastal zone management programs to the maximum extent practicable. We have determined that this proposed designation of critical habitat is consistent to the maximum extent practicable with the enforceable policies of approved Coastal Zone Management Programs of New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas. The determination has been submitted to the responsible agencies in the aforementioned states for review.

Federalism

Executive Order 13132 requires agencies to take into account any Federalism impacts of regulations under development. It includes specific consultation directives for situations in which a regulation will preempt state law, or impose substantial direct compliance costs on state and local governments (unless required by statute). We have determined that the proposed rule to designate critical habitat for the loggerhead sea turtle under the ESA would, if finalized, not have federalism implications. The designation of critical habitat directly affects only the responsibilities of Federal agencies. As a result, the proposed rule does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in the Order. State or local governments may be indirectly affected by the proposed revision if they require Federal funds or formal approval or authorization from a Federal agency as a prerequisite to conducting an action. In these cases, the State or local government agency may participate in the section 7 consultation as a third party. One of the key conclusions of the incremental analysis is that we do not expect critical habitat designation to generate additional requests for project modification in any of the proposed critical habitat units. Incremental economic impacts of the designation will likely be limited to minor additional administrative costs to NMFS, Federal agencies, and third parties when considering critical habitat as part of the forecast section 7 consultations. Therefore, the proposed designation of critical habitat is also not expected to have substantial indirect impacts on State or local governments.

Consistent with the requirements of Executive Order 13132, recognizing the intent of the Administration and Congress to provide continuing and meaningful dialogue on issues of mutual state and Federal interest, and in keeping with Department of Commerce policies, the Assistant Secretary for Legislative and Intergovernmental Affairs will provide notice of the proposed action and request comments from the appropriate officials in states where loggerhead sea turtles occur.

Paperwork Reduction Act

This proposed rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act, we make the following findings: The designation of critical habitat does not impose an ''enforceable duty'' on state, local, tribal governments, or the private sector and therefore does not qualify as a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an ''enforceable duty'' upon non-federal governments, or the private sector and includes both ''Federal intergovernmental mandates'' and ''Federal private sector mandates.''

Under the ESA, the only direct regulatory effect of this proposed rule, if finalized, is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. While non-federal entities who receive Federal funding, assistance, permits, or otherwise require approval or authorization from a Federal agency for an action may be indirectly affected by the designation of critical habitat, the legally binding duty to avoid the destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that nonfederal entities are indirectly affected because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply.

We do not believe that this proposed rule would significantly or uniquely affect small governments because it is not likely to produce a Federal mandate of $100 million or greater in any year;

that is, it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act. In addition, the designation of critical habitat imposes no obligations on local, state or tribal governments. Therefore, a Small Government Agency Plan is not required.

Takings

Under Executive Order 12630, Federal agencies must consider the effects of their actions on constitutionally protected private property rights and avoid unnecessary takings of property. A taking of property includes actions that result in physical invasion or occupancy of private property, and regulations imposed on private property that substantially affect its value or use.

In accordance with Executive Order 12630, the proposed critical habitat designation does not pose significant takings implications. A takings implication assessment is not required. This proposed designation affects only Federal agency actions (i.e. those actions authorized, funded, or carried out by Federal agencies). Therefore, the critical habitat designation does not affect landowner actions that do not require Federal funding or permits.

This designation would not increase or decrease the current restrictions on private property concerning take of loggerhead sea turtles, nor do we expect the final critical habitat designation to impose substantial additional burdens on land use or substantially affect property values. Additionally, the final critical habitat designation does not preclude the development of Conservation Plans and issuance of incidental take permits for non-Federal actions. Owners of property included or used within the proposed critical habitat designation would continue to have the opportunity to use their property in ways consistent with the survival of listed loggerhead sea turtles.

Government to Government Relationships With Tribes

The longstanding and distinctive relationship between the Federal and tribal governments is defined by treaties, statutes, executive orders, judicial decisions, and agreements, which differentiate tribal governments from the other entities that deal with, or are affected by, the Federal Government. This relationship has given rise to a special Federal trust responsibility involving the legal responsibilities and obligations of the United States toward Indian Tribes and the application of fiduciary standards of due care with respect to Indian lands, tribal trust resources, and the exercise of tribal rights.

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, outlines the responsibilities of the Federal Government in matters affecting tribal interests. If NMFS issues a regulation with tribal implications (defined as having 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) we must consult with those governments or the Federal Government must provide funds necessary to pay direct compliance costs incurred by tribal governments. The proposed critical habitat designation does not have tribal implications. The proposed critical habitat designation does not include any tribal lands and does not affect tribal trust resources or the exercise of tribal rights.

Energy Effects

Executive Order 13211 requires agencies to prepare a Statement of Energy Effects when undertaking a ''significant energy action.'' According to Executive Order 13211, ''significant energy action'' means any action by an agency that is expected to lead to the promulgation of a final rule or regulation that is a significant regulatory action under Executive Order 12866 and is likely to have a significant adverse effect on the supply, distribution, or use of energy. We have considered the potential impacts of this action on the supply, distribution, or use of energy (see draft Economic Analysis). Oil and gas exploration and alternative energy projects may affect the essential features of critical habitat for the loggerhead sea turtle. Due to the extensive requirements of oil and gas development and renewable energy projects to consider environmental impacts, including impacts on marine life, even absent critical habitat designation for the loggerhead sea turtle, we anticipate it is unlikely that critical habitat designation will change conservation efforts recommended during section 7 consultation for these projects. Consequently, it is unlikely the identified activities and projects will be affected by the designation beyond the quantified administrative impacts. Therefore, the proposed designation is not expected to impact the level of energy production. It is unlikely that any impacts to the industry that remain unquantified will result in a change in production above the one billion kilowatt-hour threshold identified in the Executive Order. Therefore, it appears unlikely that the energy industry will experience ''a significant adverse effect'' as a result of the critical habitat designation for the loggerhead sea turtle.

References Cited

A complete list of all references cited in this rule making can be found on our Web site at *http://www.nmfs.noaa.gov/pr/species/turtles/loggerhead.htm,* and is available upon request from the NMFS (see **ADDRESSES**).

List of Subjects in 50 CFR Part 226

Endangered and threatened species.

Dated: July 12, 2013.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, performing the functions and duties of the Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, we propose to amend part 226, title 50 of the Code of Federal Regulations as set forth below:

PART 226—DESIGNATED CRITICAL HABITAT

■ 1. The authority citation of part 226 continues to read as follows:

Authority: 16 U.S.C. 1533.

■ 2. Add § 226.223, to read as follows:

§ 226.223 Critical habitat for the Northwest Atlantic Ocean Distinct Population Segment of the loggerhead sea turtle (Caretta caretta).

Critical habitat is designated for the Northwest Atlantic Ocean Distinct Population Segment of the loggerhead sea turtle (*Caretta caretta*) as described in this section. The textual descriptions of critical habitat in this section are the definitive source for determining the critical habitat boundaries. For nearshore reproductive areas, the units extend directly from the mean high water (MHW) line at each end of the unit seaward 1.6 km. Where beaches are within 1.6 km of each other, nearshore areas are connected, either along the shoreline (MHW line) or by delineating on GIS a straight line from the end of one beach to the beginning of another (either from island to island or across an inlet or the mouth of an estuary). Although generally following these rules, the exact delineation of each unit was determined individually because each was unique. The overview maps are provided for general guidance only and not as a definitive source for determining critical habitat boundaries.

(a) Critical habitat boundaries. Critical habitat is designated to include the following areas:

(1) LOGG–N–1—*North Carolina Constricted Migratory Corridor and*

Northern Portion of the North Carolina Winter Concentration Area. This unit contains constricted migratory and winter habitat. The unit includes the North Carolina constricted migratory corridor and the overlapping northern half of the North Carolina winter concentration area. We defined the constricted migratory corridor off North Carolina as the waters between 36° N. lat. and Cape Lookout (approximately 34.58° N) from the edge of the Outer Banks, North Carolina, barrier islands to the 200-meter (m) (656 feet) depth contour (continental shelf). The constricted migratory corridor overlaps with the northern portion of winter concentration area off North Carolina. The east and western boundaries of winter habitat are the 20-m and 100-m (65.6 and 328 feet) contours, respectively. The northern boundary of winter habitat starts at Cape Hatteras (35°16′ N) in a straight latitudinal line between 20- and 100-m (65.6–328 feet) depth contours and ends at Cape Lookout (approximately 34.58° N).

(2) LOGG–N–2—*Southern Portion of the North Carolina Winter Concentration Area.* This unit contains winter habitat only. The boundaries include waters between the 20- and 100-m (65.6 and 328 feet) depth contours between Cape Lookout to Cape Fear. The eastern and western boundaries of winter habitat are the 20-m and 100-m (65.6 and 328 feet) contours, respectively. The northern boundary is Cape Lookout (approximately 34.58° N). The southern boundary is a 37.5-km (23.25-mile) line that extends from the 20-m (65.6 feet) depth contour at approximately 33.47° N, 77.58° W (off Cape Fear) to the 100-m (328 feet) depth contour at approximately 33.2° N, 77.32° W.

(3) LOGG–N–3—*Bogue Banks and Bear Island, Carteret and Onslow Counties, North Carolina.* This unit contains nearshore reproductive habitat only. The unit consists of nearshore area from Beaufort Inlet to Bear Inlet (crossing Bogue Inlet) from the MHW line seaward 1.6 km.

(4) LOGG–N–4—*Onslow Beach (Marine Corps Base Camp Lejeune), Topsail Island and Lea-Huttaf Island, Onslow and Pender Counties, North Carolina.* This unit contains nearshore reproductive habitat only. The unit consists of nearshore area from Browns Inlet to Rich Inlet (crossing New River Inlet and New Topsail Inlet) from the MHW line seaward 1.6 km (1.0 mile).

(5) LOGG–N–5—*Pleasure Island, Bald Head Island, Oak Island, and Holden Beach, New Hanover and Brunswick Counties, North Carolina.* This unit contains nearshore reproductive habitat only. The unit consists of nearshore area from Carolina Beach Inlet around Cape Fear to Shallotte Inlet (crossing the mouths of the Cape Fear River and Lockwoods Folly Inlet), from the MHW line seaward 1.6 km.

(6) LOGG–N–6—*North, Sand, South and Cedar Islands, Georgetown County, South Carolina; Murphy, Cape, Lighthouse Islands and Racoon Key, Charleston County, South Carolina.* This unit contains nearshore reproductive habitat only. The unit consists of nearshore area from North Inlet to Five Fathom Creek Inlet (crossing Winyah Bay, North Santee Inlet, South Santee Inlet, Cape Romain Inlet, and Key Inlet) from the MHW line seaward 1.6 km.

(7) LOGG–N–7—*Folly, Kiawah, Seabrook, Botany Bay Islands, Botany Bay Plantation, Interlude Beach, and Edingsville Beach, Charleston County, South Carolina; Edisto Beach State Park, Edisto Beach, and Pine and Otter Islands, Colleton County, South Carolina.* This unit contains nearshore reproductive habitat only. The unit consists of nearshore area from Lighthouse Inlet to Saint Helena Sound (crossing Folly River, Stono, Captain Sam's, North Edisto, Frampton, Jeremy, South Edisto and Fish Creek Inlets) from the MHW line seaward 1.6 km.

(8) LOGG–N–8—*Harbor Island, Beaufort County, South Carolina.* This unit contains nearshore reproductive habitat only. The unit consists of nearshore area from Harbor Inlet to Johnson Inlet from the MHW line seaward 1.6 km.

(9) LOGG–N–9—*Little Capers, St. Phillips, and Bay Point Islands, Beaufort County, South Carolina.* This unit contains nearshore reproductive habitat only. The unit consists of nearshore area from Pritchards Inlet to Port Royal Sound (crossing Trenchards Inlet and Morse Island Creek Inlet East) from the MHW line seaward 1.6 km.

(10) LOGG–N–10—*Little Tybee Island, Chatham County, Georgia:* This unit contains nearshore reproductive habitat only. The boundaries of this unit are from Tybee Creek Inlet to Wassaw Sound from the MHW line seaward 1.6 km.

(11) LOGG–N–11—*Wassaw Island, Chatham County, Georgia:* This unit contains nearshore reproductive habitat only. The boundaries of the unit are from Wassaw Sound to Ossabaw Sound from the MHW line seaward 1.6 km.

(12) LOGG–N–12—*Ossabaw Island, Chatham County, Georgia; St. Catherines Island, Liberty County, Georgia; Blackbeard and Sapelo Islands, McIntosh County, Georgia:* This unit contains nearshore reproductive habitat only. The boundaries of this unit are nearshore areas from the Ogeechee River to Deboy Sound (crossing St. Catherines Sound, McQueen Inlet, Sapelo Sound, and Cabretta Inlet) extending from the MHW line and seaward 1.6 km.

(13) LOGG–N–13—*Little Cumberland Island and Cumberland Island, Camden County, Georgia:* This unit contains nearshore reproductive habitat only. The boundaries of this unit are nearshore areas from St. Andrew Sound to the St. Marys River (Crossing Christmas Creek) from the MHW line seaward 1.6 km (1.0 mile).

(14) LOGG–N–14—*Southern Boundary of Kathryn Abbey Hanna Park to Mantanzas Inlet, Duval and St. Johns Counties, Florida:* This unit contains nearshore reproductive habitat only. The boundaries of the unit are nearshore areas from the south boundary of Kathryn Abbey Hanna Park to Matanzas Inlet (crossing St. Augustine Inlet) from the MHW line seaward 1.6 km.

(15) LOGG–N–15—*Northern Boundary of River to Sea Preserve at Marineland to Granada Blvd., Flagler and Volusia Counties, Florida:* This unit contains nearshore reproductive habitat only. The boundaries of the unit are nearshore areas from the north boundary of River to Sea Preserve at Marineland to Granada Boulevard in Ormond Beach from the MHW line seaward 1.6 km.

(16) LOGG–N–16—*Canaveral National Seashore to 28.70° N, 80.66° W near Titusville, Volusia and Brevard Counties, Florida:* This unit contains nearshore reproductive habitat only. Boundaries of the unit are nearshore areas from the north boundary of Canaveral National Seashore to 28.70° N, 80.66° W near Titusville (at the start of the Titusville–Floridana Beach concentrated breeding area) from the MHW line seaward 1.6 km.

(17) LOGG–N–17—*Titusville to Floridana Beach Concentrated Breeding Area, Northern Portion of the Florida Constricted Migratory Corridor, Nearshore Reproductive Habitat from 28.70° N, 80.66° W near Titusville to Cape Canaveral Air Force Station; and Nearshore Reproductive Habitat from Patrick Airforce Base and Central Brevard Beaches, Brevard County, Florida:* This unit includes overlapping areas of nearshore reproductive habitat, constricted migratory habitat, and breeding habitat. The concentrated breeding habitat area is from the MHW line on shore at 28.70° N, 80.66° W near Titusville to depths less than 60 m and extending south to Floridana Beach. This overlaps with waters in the northern portion of the Florida constricted migratory corridor, which begins at the tip of Cape Canaveral Air

Force Station (28.46° N. lat.) and ends at Floridana beach, including waters from the MHW line on shore to the 30-m contour line. Additionally, the above two habitat areas overlap with two nearshore reproductive habitat areas. The first begins near Titusville at 28.70° N, 80.66° W to the south boundary of the Cape Canaveral Air Force Station/Canaveral Barge Canal Inlet from the MHW line seaward 1.6 km. The second begins at Patrick Air Force Base, Brevard County, through the central Brevard Beaches to Floridana Beach from the MHW line seaward 1.6 km.

(18) LOGG–N–18—*Florida Constricted Migratory Corridor from Floridana Beach to Martin County/Palm Beach County Line; Nearshore Reproductive Habitat from Floridana Beach to the south end of Indian River Shores; Nearshore Reproductive Habitat from Fort Pierce inlet to Martin County/Palm Beach County Line, Brevard, Indian River and Martin Counties, Florida*—This unit contains nearshore reproductive habitat and constricted migratory habitat. The unit contains a portion of the Florida constricted migratory corridor, which is located in the nearshore waters from the MHW line to the 30-m contour off Floridana Beach to the Martin County/Palm Beach County line. This overlaps with two nearshore reproductive habitat areas. The first nearshore reproductive area includes nearshore areas from Floridana Beach to the south end of Indian River Shores (crossing Sebastian Inlet) from the MHW line seaward 1.6 km. The second nearshore reproductive habitat area includes nearshore areas from Fort Pierce inlet to Martin County/Palm Beach County line (crossing St. Lucie Inlet) from the MHW line seaward 1.6 km.

(19) LOGG–N–19—*Southern Florida Constricted Migratory Corridor; Southern Florida Concentrated Breeding Area; and Six Nearshore Reproductive Areas: Martin County/Palm Beach County line to Hillsboro Inlet, Palm Beach and Broward Counties, Florida; Long Key, Bahia Honda Key, Woman Key, Boca Grande Key, and Marquesas Keys, Monroe County, Florida*—This unit contains nearshore reproductive habitat, constricted migratory habitat, and breeding habitat. The unit contains the southern Florida constricted migratory corridor habitat, overlapping southern Florida breeding habitat, and overlapping nearshore reproductive habitat. The southern portion of the Florida concentrated breeding area and the southern Florida constricted migratory corridor are both located in the nearshore waters starting at the Martin County/Palm Beach County line to the westernmost edge of the Marquesas Keys (82.17° W. long.), with the exception of the waters under the jurisdiction of NAS Key West. The seaward border then follows the 200-m contour line to the westernmost edge at the Marquesas Keys. The overlapping nearshore reproductive habitat includes nearshore waters starting at the Martin County/Palm Beach County line to Hillsboro Inlet (crossing Jupiter, Lake Worth, Boyton, and Boca Raton Inlets) from the MHW line seaward 1.6 km; Long Key, which is bordered on the east by the Atlantic Ocean, on the west by Florida Bay, and on the north and south by natural channels between Keys (Fiesta Key to the north and Conch Key to the south), and has boundaries following the borders of the island from the MHW line seaward to 1.6 km; Bahia Honda Key, from the MHW line seaward 1.6 km; 4) Woman Key, from the MHW line and seaward to 1.6 km; 5) Boca Grande Key, from the MHW line seaward to 1.6 km; 6) the Marquesas Keys unit boundary, including nearshore areas from the MHW line seaward to 1.6 km from four islands where loggerhead sea turtle nesting has been documented within the Marquesas Keys: Marquesas Key, Unnamed Key 1, Unnamed Key 2, and Unnamed Key 3.

(20) LOGG–N–20—*Dry Tortugas, Monroe County, Florida:* This unit contains nearshore reproductive habitat only. The unit boundary includes nearshore areas from the MHW line and seaward to 1.6 km (1.0 mile) from six islands where loggerhead sea turtle nesting has been documented within the Dry Tortugas. From west to east, these six islands are: Loggerhead Key, Garden Key, Bush Key, Long Key, Hospital Key, and East Key.

(21) LOGG–N–21—*Cape Sable, Monroe County, Florida:* This unit contains nearshore reproductive habitat only. The boundaries of the unit are nearshore areas from the MHW line and seaward to 1.6 km from the north boundary of Cape Sable at 25.25° N, 81.17° W to the south boundary of Cape Sable at 25.12° N, 81.07° W.

(22) LOGG–N–22—*Graveyard Creek to Shark Point, Monroe County, Florida:* This unit contains nearshore reproductive habitat only. The boundaries of this unit are nearshore areas from Shark Point (25.39° N, 81.15° W) to Graveyard Creek Inlet from the MHW line seaward 1.6 km.

(23) LOGG–N–23—*Highland Beach, Monroe County, Florida:* This unit contains nearshore reproductive habitat only. The boundaries of this unit are from First Bay to Rogers River Inlet from the MHW line seaward 1.6 km.

(24) LOGG–N–24—*Ten Thousand Islands North, Collier County, Florida:* This unit contains nearshore reproductive habitat only. The unit boundary includes nearshore areas from the MHW line seaward 1.6 km (1.0 mile) of nine keys where loggerhead sea turtle nesting has been documented within the northern part of the Ten Thousand Islands in Collier County in both the Ten Thousand Islands NWR and the Rookery Bay NERR.

(25) LOGG–N–25—*Cape Romano, Collier County, Florida:* This unit contains nearshore reproductive habitat only. The boundaries of the unit are nearshore areas from Caxambas Pass to Gullivan Bay from the MHW line seaward 1.6 km.

(26) LOGG–N–26—*Keewaydin Island and Sea Oat Island, Collier County, Florida:* This unit contains nearshore reproductive habitat only. The boundaries of the unit are nearshore areas from Gordon Pass to Big Marco Pass from the MHW line seaward 1.6 km.

(27) LOGG–N–27—*Little Hickory Island to Doctors Pass, Lee and Collier Counties, Florida:* This unit contains nearshore reproductive habitat only. The boundaries of the unit are nearshore areas from Little Hickory Island to Doctors Pass (crossing Wiggins Pass and Clam Pass) from the MHW line seaward 1.6 km.

(28) LOGG–N–28—*Captiva Island and Sanibel Island West, Lee County, Florida:* This unit contains nearshore reproductive habitat only. The boundaries of the unit are nearshore areas from the north end of Captiva/Captiva Island Golf Club (starting at Redfish Pass and crossing Blind Pass) and along Sanibel Island West to Tarpon Bay Road, from the MHW line seaward 1.6 km.

(29) LOGG–N–29—*Siesta and Casey Keys, Sarasota County; Venice Beaches and Manasota Key, Sarasota and Charlotte Counties; Knight, Don Pedro, and Little Gasparilla Islands, Charlotte County; Gasparilla Island, Charlotte and Lee Counties; Cayo Costa, Lee County, Florida:* This unit contains nearshore reproductive habitat only. The boundaries of this unit are nearshore areas from Big Sarasota Pass to Catliva Pass (crossing Venice Inlet, Stump Pass, Gasparilla Pass, and Boca Grande Pass), from the MHW line seaward 1.6 km.

(30) LOGG–N–30—*Longboat Key, Manatee and Sarasota Counties, Florida:* This unit contains nearshore reproductive habitat only. The boundaries of this unit are the north point of Longboat Key at Longboat Pass to New Pass, from the MHW line seaward 1.6 km.

(31) LOGG–N–31—*St. Joseph Peninsula, Cape San Blas, St. Vincent, St. George and Dog Islands, Gulf and Franklin Counties, Florida:* This unit contains nearshore reproductive habitat only. The boundaries of this unit are from St. Joseph Bay to St. George Sound (crossing Indian, West, and East Passes) from the MHW line seaward 1.6 km.

(32) LOGG–N–32—*Mexico Beach and St. Joe Beach, Bay and Gulf Counties, Florida:* This unit contains nearshore reproductive habitat only. The boundaries of the unit are from the eastern boundary of Tyndall Air Force Base to Gulf County Canal in St. Joseph Bay from the MHW line seaward 1.6 km.

(33) LOGG–N–33—*Gulf State Park to FL/AL state line, Baldwin County, Alabama; FL/AL state line to Pensacola Pass, Escambia County, Florida:* This unit contains nearshore reproductive habitat only. The boundaries of the unit are nearshore areas from the west boundary of Gulf State Park to the Pensacola Pass (crossing Perido Pass and the Alabama-Florida border) from the MHW line and seaward to 1.6 km.

(34) LOGG–N–34—*Mobile Bay—Little Lagoon Pass, Baldwin County, Alabama:* This unit contains nearshore reproductive habitat only. The boundaries of the unit are nearshore areas from Mobile Bay Inlet to Little Lagoon Pass from the MHW line and seaward to 1.6 km.

(35) LOGG–N–35—*Petit Bois Island, Jackson County, Mississippi:* This unit contains nearshore reproductive habitat only. The boundaries of the unit are nearshore areas from Horn Island Pass to Petit Bois Pass from the MHW line and seaward to 1.6 km.

(36) LOGG–N–36—*Horn Island, Jackson County, Mississippi:* This unit contains nearshore reproductive habitat only. The boundaries of the unit are nearshore areas from Dog Keys Pass to the eastern most point of the ocean facing island shore from the MHW line and seaward to 1.6 km (1.0 mile).

(b) *Physical or biological features essential for conservation.* The physical or biological features (PBFs) and primary constituent elements (PCEs) essential for conservation of the Northwest Atlantic Ocean DPS of the loggerhead sea turtle are identified by habitat type below.

(1) *Nearshore Reproductive Habitat.* We describe the PBF of nearshore reproductive habitat as a portion of the nearshore waters adjacent to nesting beaches that are used by hatchlings to egress to the open-water environment as well as by nesting females to transit between beach and open water during the nesting season. PCEs that support this habitat are the following:

(i) Nearshore waters directly off the highest density nesting beaches, as identified in 78 FR 18000, March 25, 2013, to 1.6 km (1 mile) offshore;

(ii) Waters sufficiently free of obstructions or artificial lighting to allow transit through the surf zone and outward toward open water; and

(iii) Waters with minimal manmade structures that could promote predators (i.e., nearshore predator concentration caused by submerged and emergent offshore structures), disrupt wave patterns necessary for orientation, and/or create excessive longshore currents.

(2) *Winter Habitat.* We describe the PBF of the winter habitat as warm water habitat south of Cape Hatteras near the western edge of the Gulf Stream used by a high concentration of juveniles and adults during the winter months. PCEs that support this habitat are the following:

(i) Water temperatures above 10 °C from November through April;

(ii) Continental shelf waters in proximity to the western boundary of the Gulf Stream; and

(iii) Water depths between 20 and 100 m.

(3) *Breeding Habitat.* We describe the PBF of concentrated breeding habitat as those sites with high concentrations of both male and female adult individuals during the breeding season. PCEs that support this habitat are the following:

(i) High concentrations of reproductive male and female loggerheads;

(ii) Proximity to primary Florida migratory corridor; and

(iii) Proximity to Florida nesting grounds.

(4) Migratory Habitat. We describe the PBF of constricted migratory habitat as high use migratory corridors that are constricted (limited in width) by land on one side and the edge of the continental shelf and Gulf Stream on the other side. PCEs that support this habitat are the following:

(i) Constricted continental shelf area relative to nearby continental shelf waters that concentrate migratory pathways; and

(ii) Passage conditions to allow for migration to and from nesting, breeding, and/or foraging areas.

(c) *Areas not included in critical habitat.* Critical habitat does not include the following particular areas where they overlap with the areas described in paragraph (a) of this section:

(1) Pursuant to ESA section 4(a)(3)(B), all areas subject to the 2008 Naval Air Station Key West Integrated Natural Resources Management Plan.

(2) Pursuant to ESA section 3(5)(A)(i), all federally authorized or permitted man-made structures such as aids-to-navigation, boat ramps, platforms, docks, and pilings existing within the legal boundaries on [DATE 30 DAYS AFTER PUBLICATION DATE OF THE FINAL RULE].

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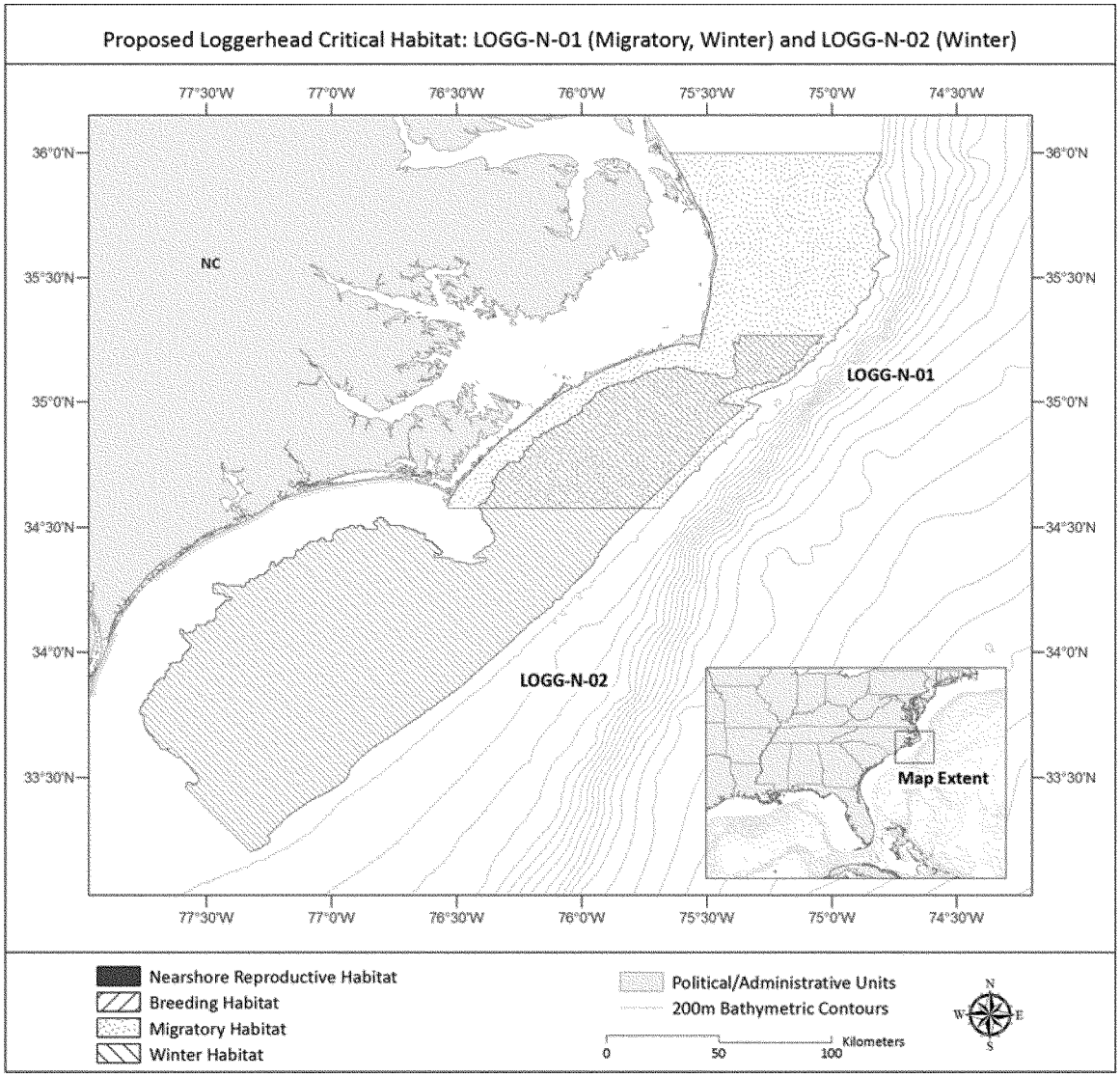
Proposed Loggerhead Critical Habitat: LOGG-N-01 (Migratory, Winter) and LOGG-N-02 (Winter)
77°30'W
77°0'W
76°30'W
76°0'W
75°30'W
75°0'W
74°30'W
36°0'N
35°30'N
35°0'N
34°30'N
34°0'N
33°30'N
NC
LOGG-N-01
LOGG-N-02
Map Extent
Nearshore Reproductive Habitat
Breeding Habitat
Migratory Habitat
Winter Habitat
Political/Administrative Units
200m Bathymetric Contours
0
50
100
Kilometers
N
W
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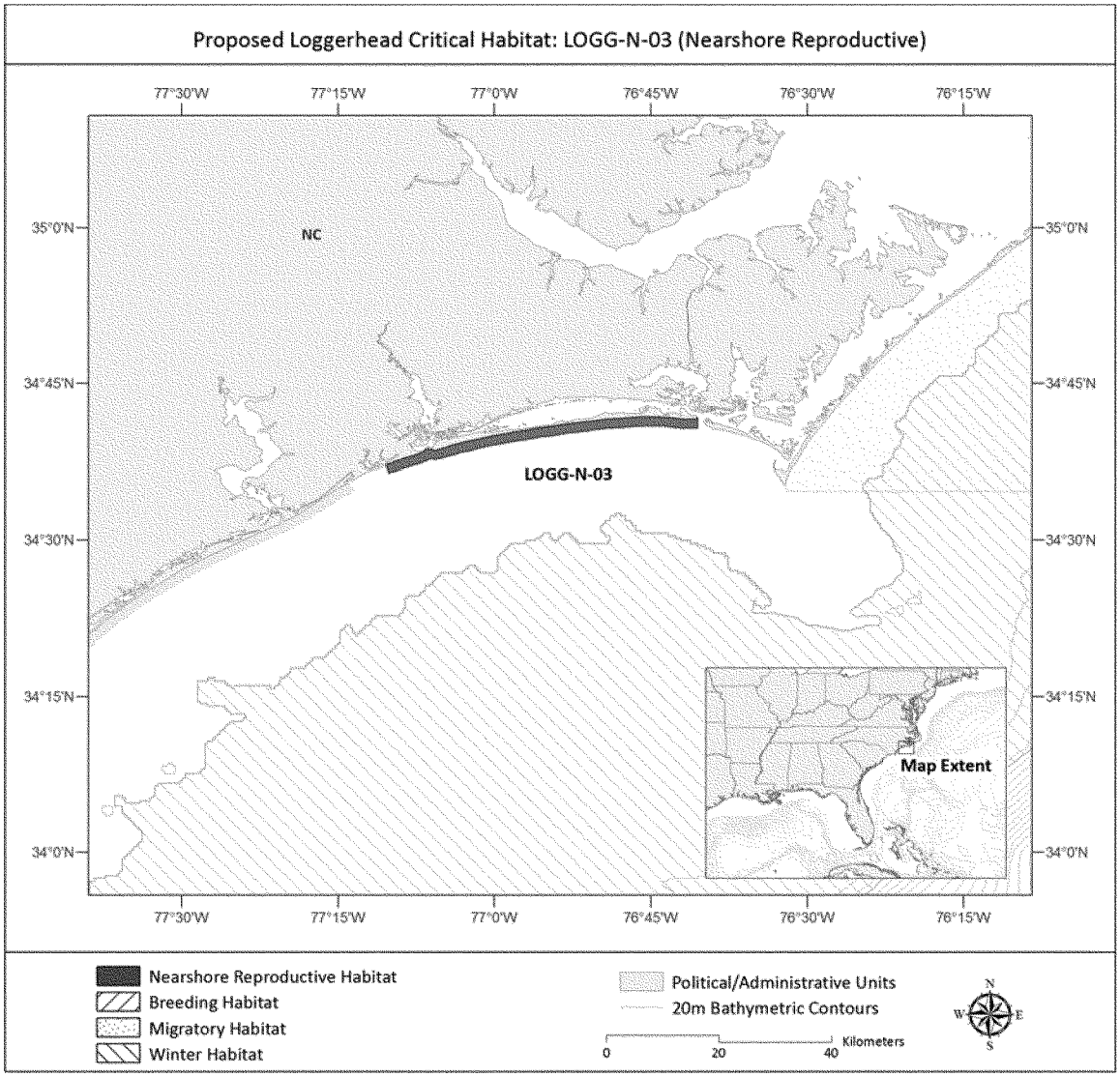
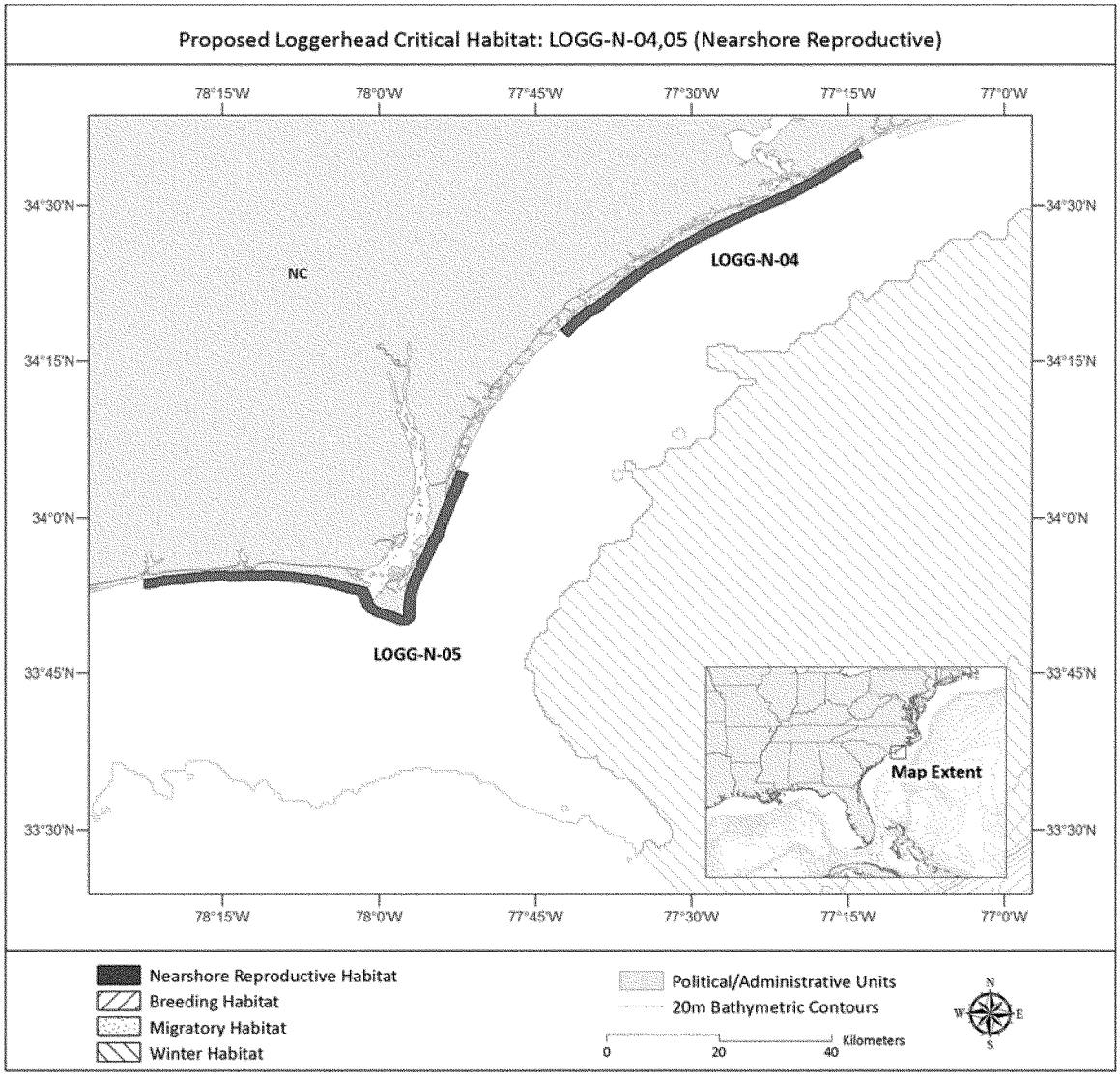
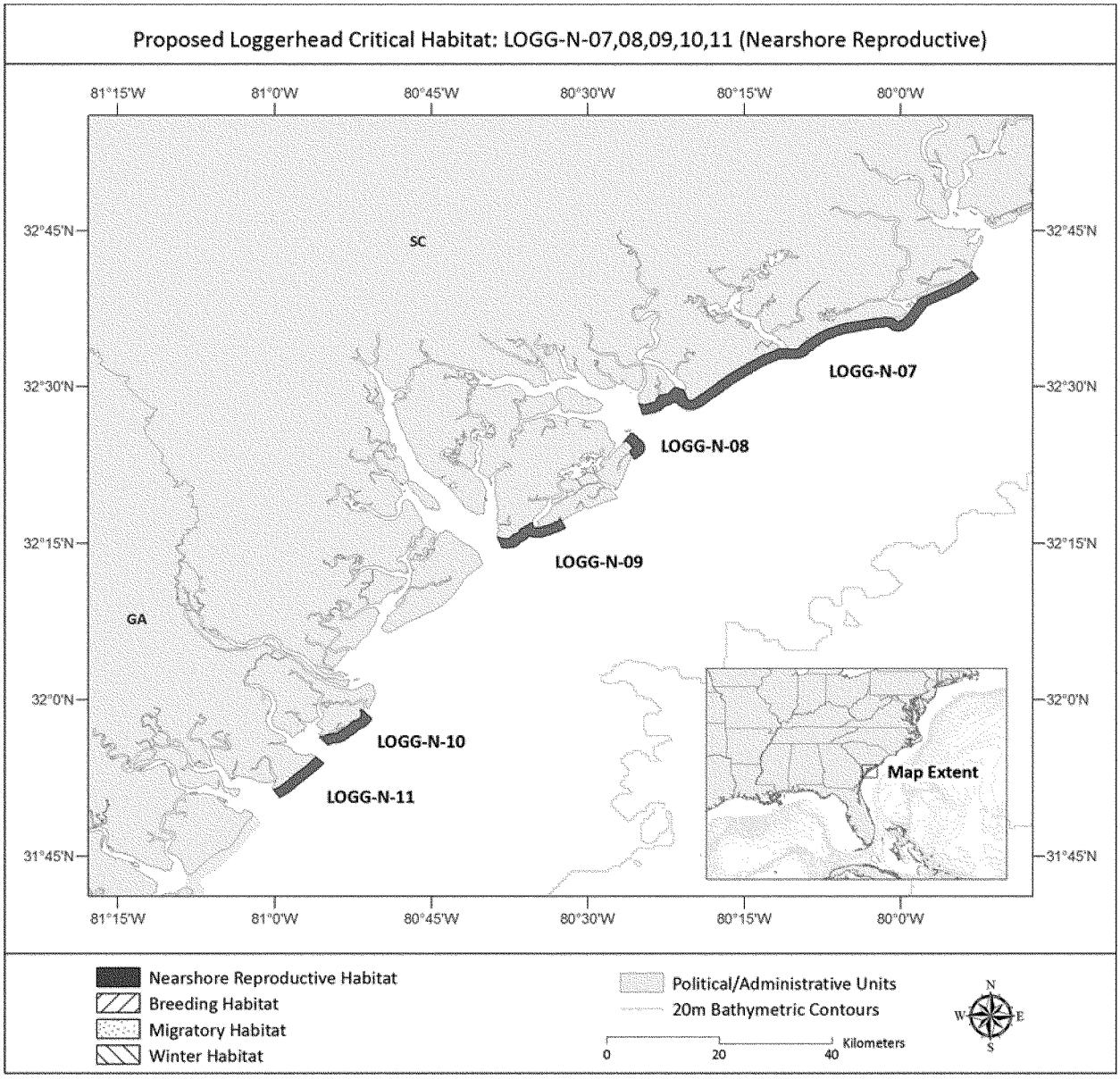
S


Proposed Loggerhead Critical Habitat: LOGG-N-03 (Nearshore Reproductive)
77°30'W
77°15'W
77°0'W
76°45'W
76°30'W
76°15'W
35°0'N
34°45'N
34°30'N
34°15'N
34°0'N
NC
LOGG-N-03
Map Extent
Nearshore Reproductive Habitat
Breeding Habitat
Migratory Habitat
Winter Habitat
Political/Administrative Units
20m Bathymetric Contours
0
20
40
Kilometers
N
W
E
S


Proposed Loggerhead Critical Habitat: LOGG-N-04,05 (Nearshore Reproductive)
78°15'W
78°0'W
77°45'W
77°30'W
77°15'W
77°0'W
34°30'N
34°15'N
34°0'N
33°45'N
33°30'N
NC
LOGG-N-04
LOGG-N-05
Map Extent
Nearshore Reproductive Habitat
Breeding Habitat
Migratory Habitat
Winter Habitat
Political/Administrative Units
20m Bathymetric Contours
0
20
40
Kilometers
N
W
E
S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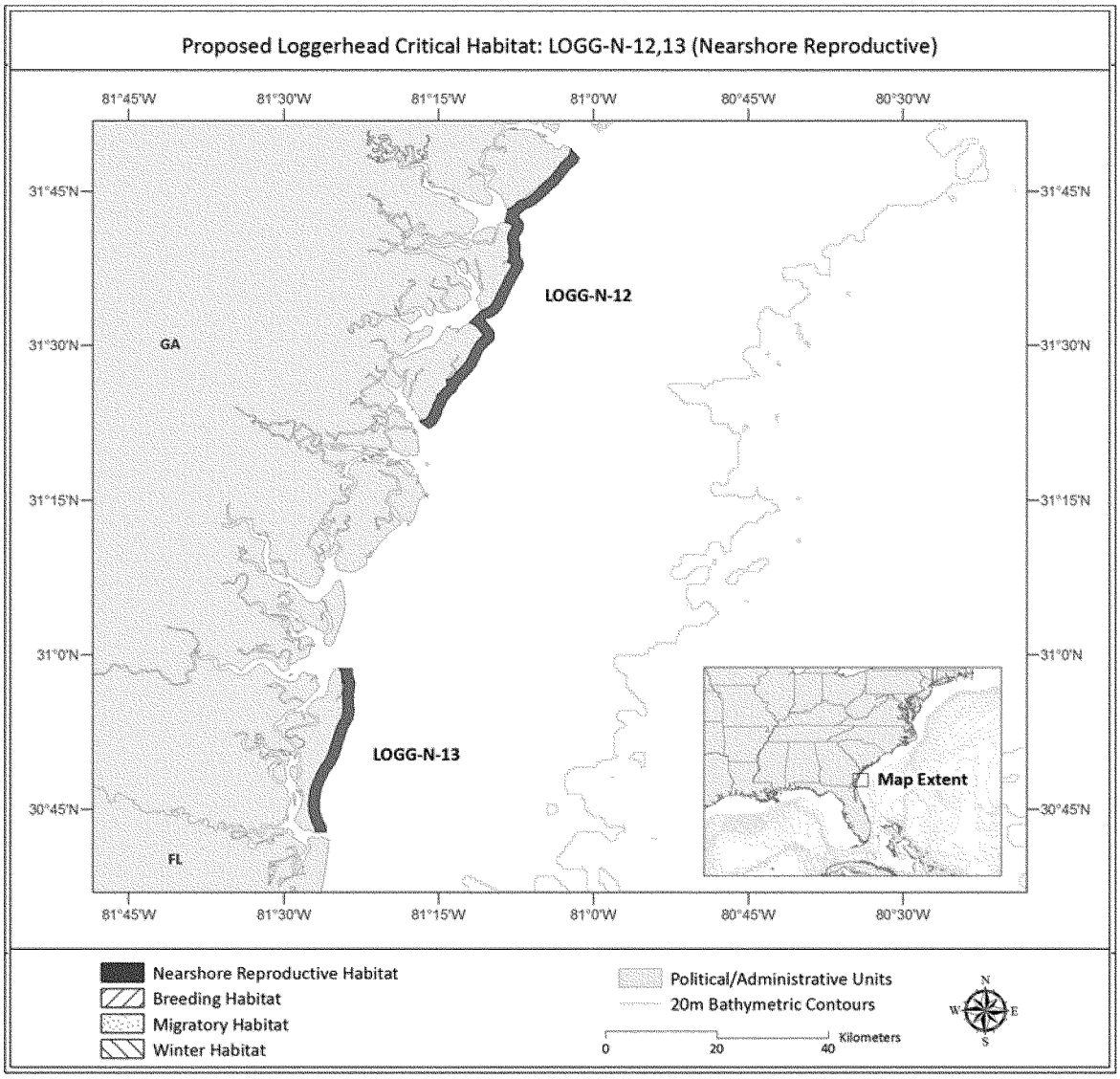
81°15'W
81°0'W
80°45'W
80°30'W
80°15'W
80°0'W
32°45'N
32°30'N
32°15'N
32°0'N
31°45'N
SC
GA
LOGG-N-07
LOGG-N-08
LOGG-N-09
LOGG-N-10
LOGG-N-11
Map Extent
Nearshore Reproductive Habitat
Breeding Habitat
Migratory Habitat
Winter Habitat
Political/Administrative Units
20m Bathymetric Contours
0
20
40
Kilometers
N
W
E
S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81°45'W
81°30'W
81°15'W
81°0'W
80°45'W
80°30'W
31°45'N
31°30'N
31°15'N
31°0'N
30°45'N
GA
FL
LOGG-N-12
LOGG-N-13
Map Extent
Nearshore Reproductive Habitat
Breeding Habitat
Migratory Habitat
Winter Habitat
Political/Administrative Units
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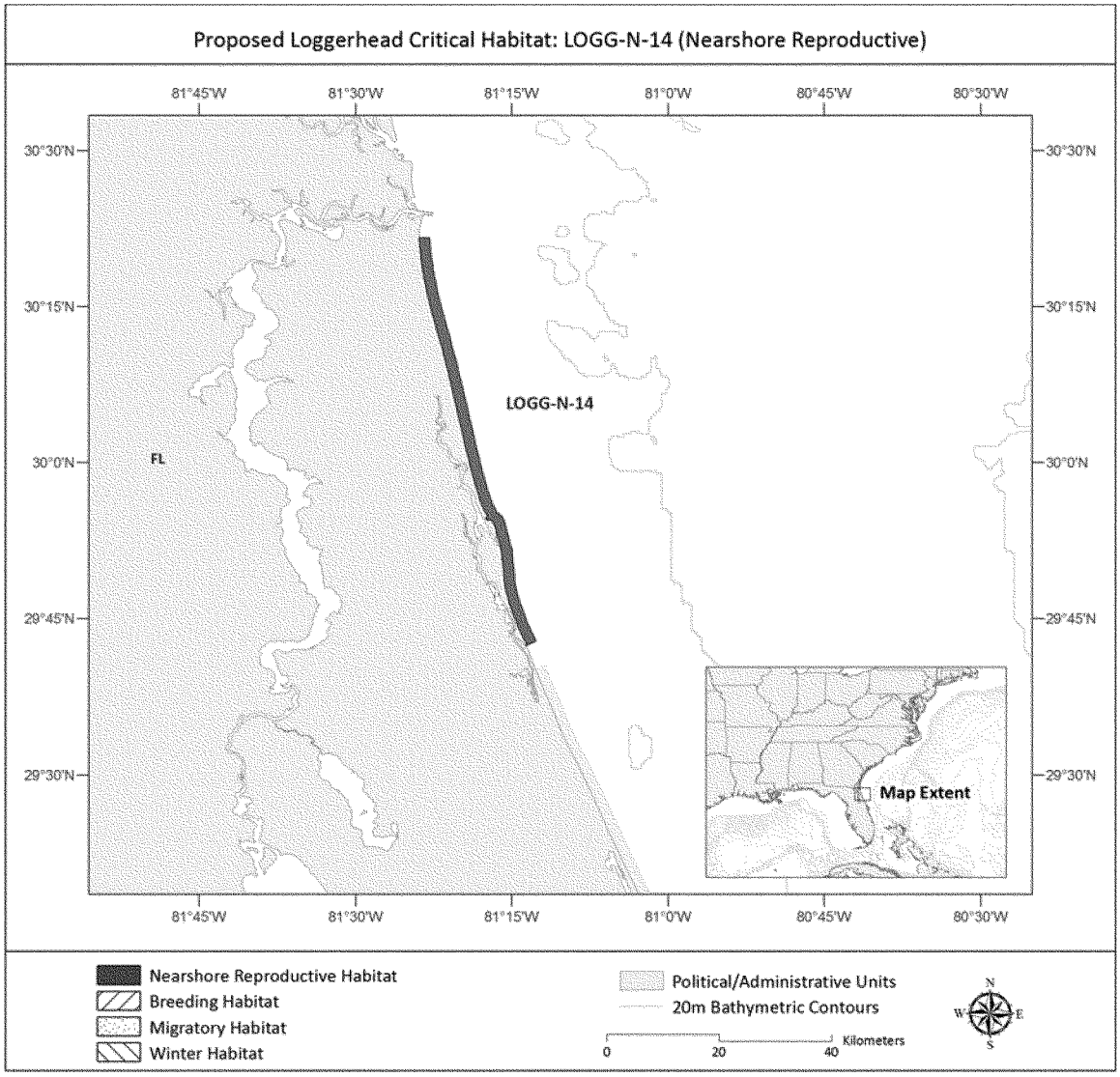
Kilometers
N
W
E
S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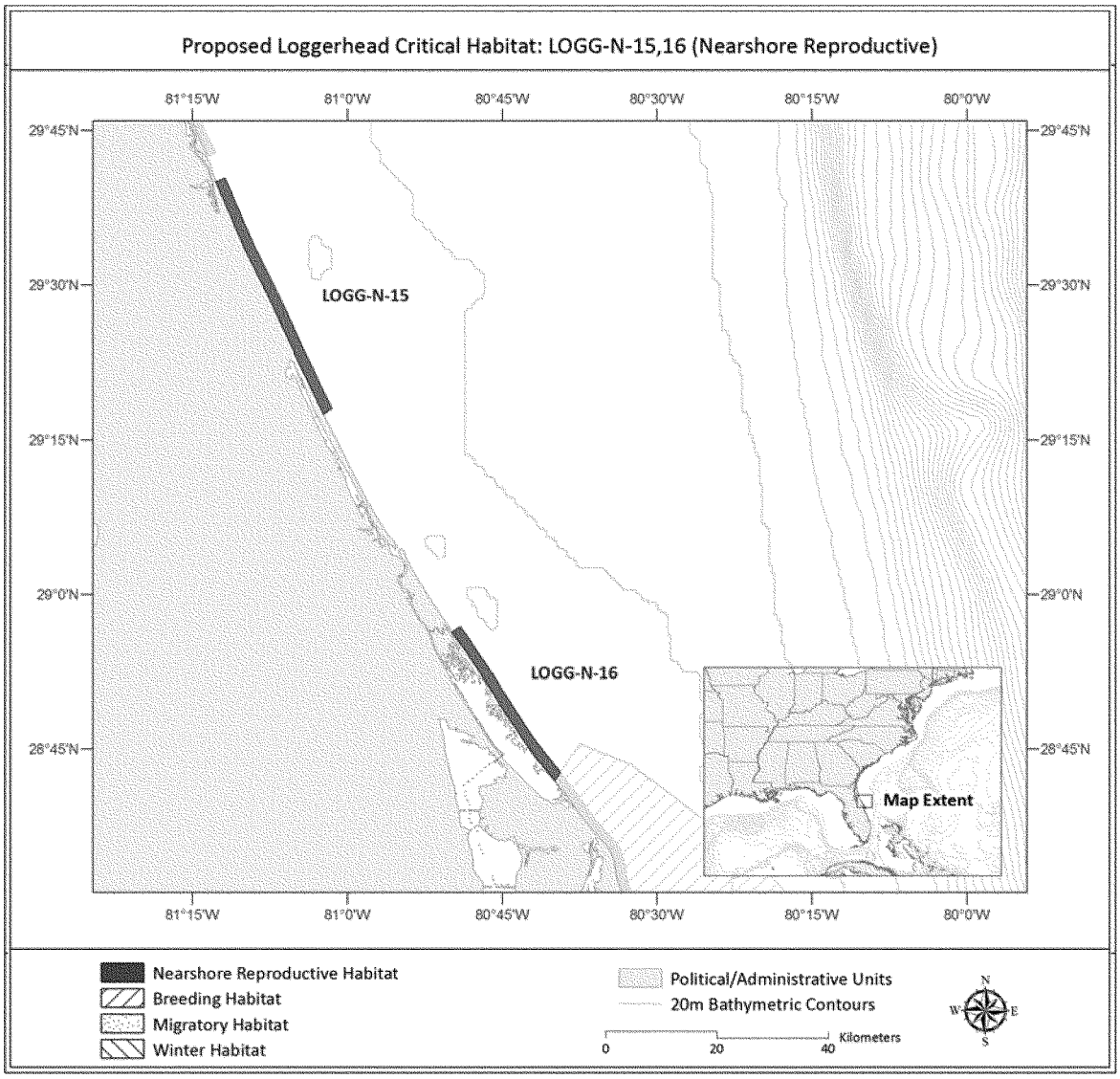
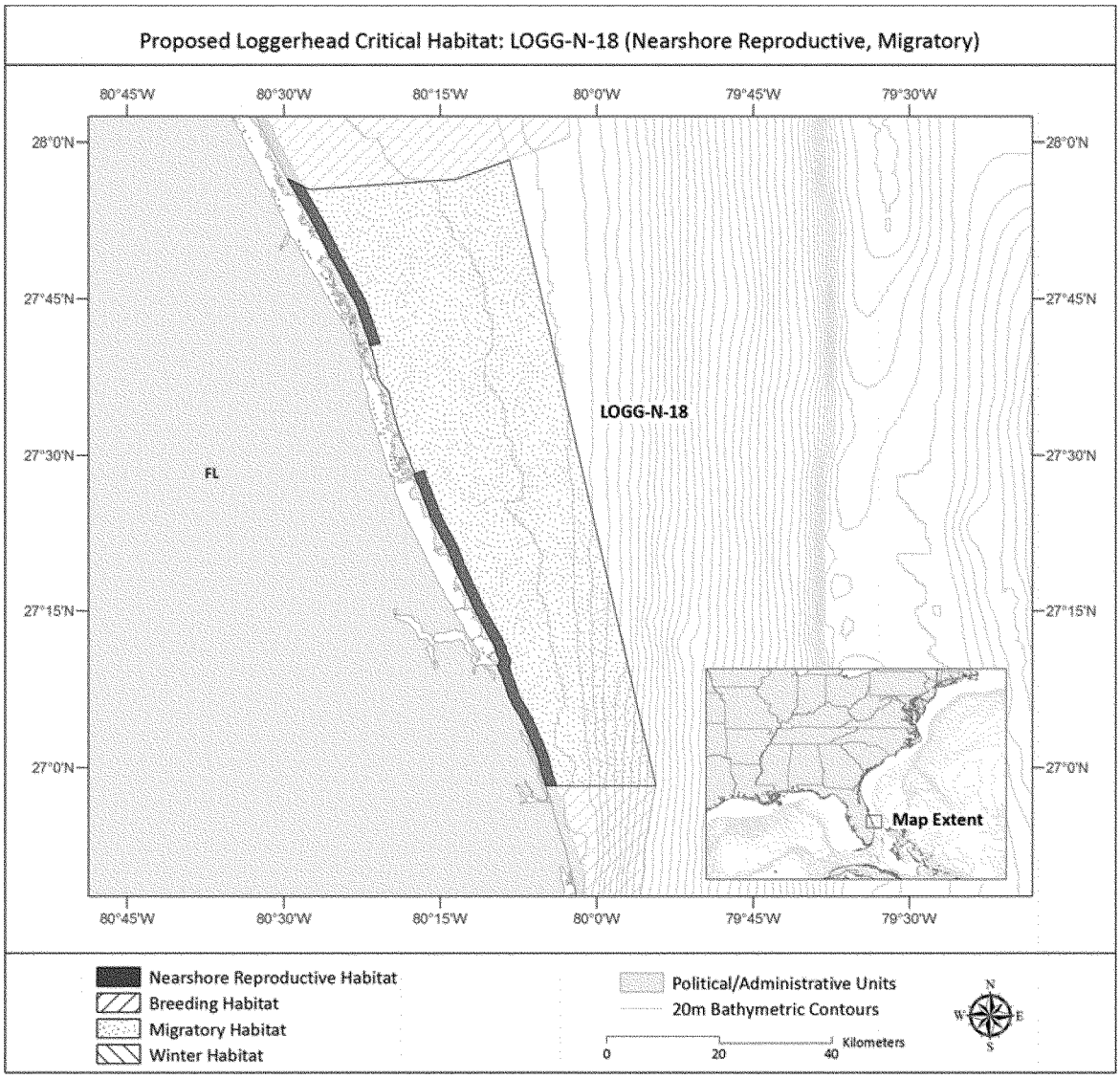
81°45'W
81°30'W
81°15'W
81°0'W
80°45'W
80°30'W
30°30'N
30°15'N
30°0'N
29°45'N
29°30'N
LOGG-N-14
FL
Map Extent
Nearshore Reproductive Habitat
Breeding Habitat
Migratory Habitat
Winter Habitat
Political/Administrative Units
20m Bathymetric Contours
0
20
40
Kilometers
N
W
E
S


Proposed Loggerhead Critical Habitat: LOGG-N-15,16 (Nearshore Reproductive)
81°15'W
81°0'W
80°45'W
80°30'W
80°15'W
80°0'W
29°45'N
29°30'N
29°15'N
29°0'N
28°45'N
LOGG-N-15
LOGG-N-16
Map Extent
Nearshore Reproductive Habitat
Breeding Habitat
Migratory Habitat
Winter Habitat
Political/Administrative Units
20m Bathymetric Contours
0
20
40
Kilometers
N
W
E
S


Proposed Loggerhead Critical Habitat: LOGG-N-18 (Nearshore Reproductive, Migratory)
80°45'W
80°30'W
80°15'W
80°0'W
79°45'W
79°30'W
28°0'N
27°45'N
27°30'N
27°15'N
27°0'N
LOGG-N-18
FL
Map Extent
Nearshore Reproductive Habitat
Breeding Habitat
Migratory Habitat
Winter Habitat
Political/Administrative Units
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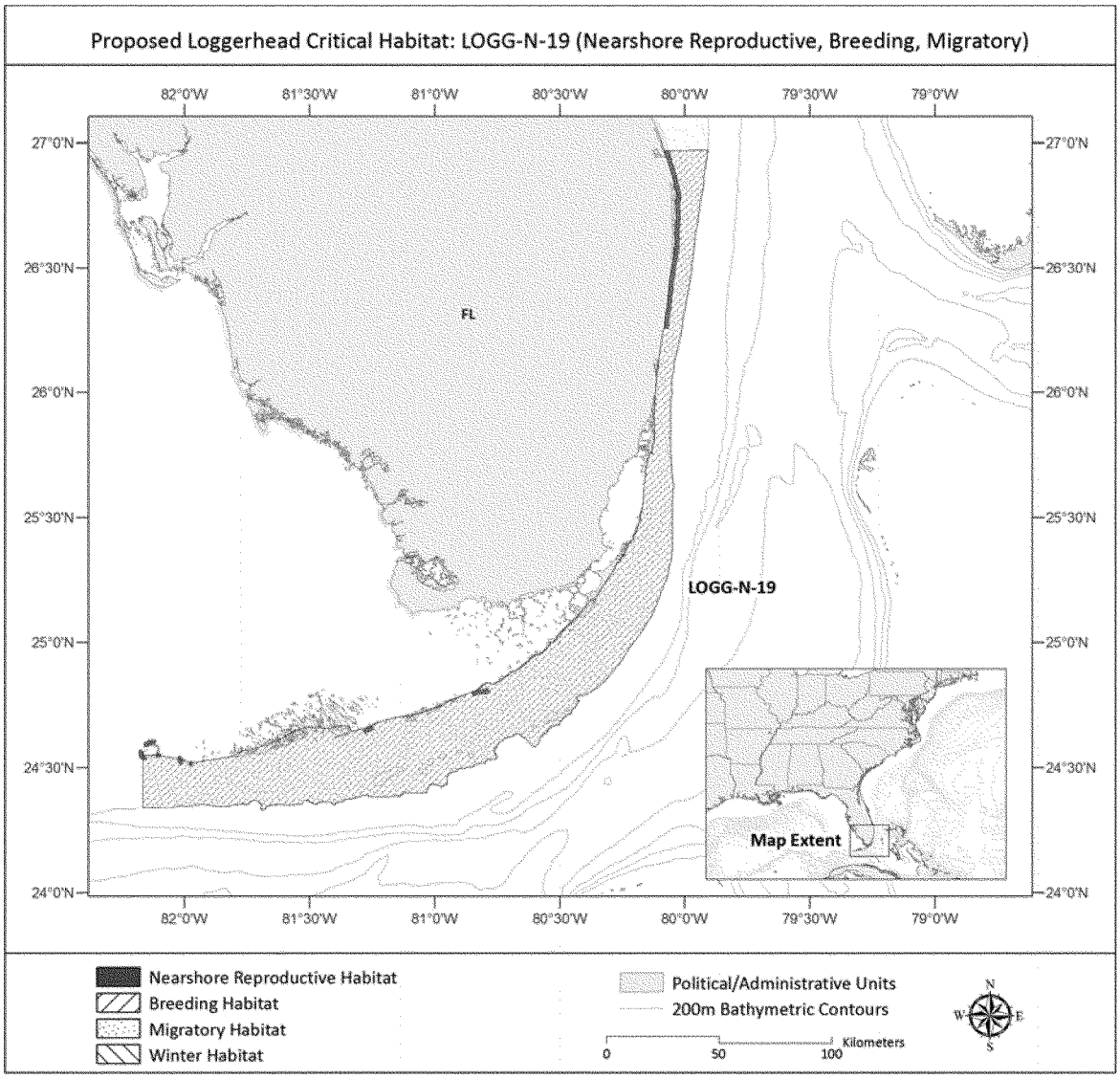
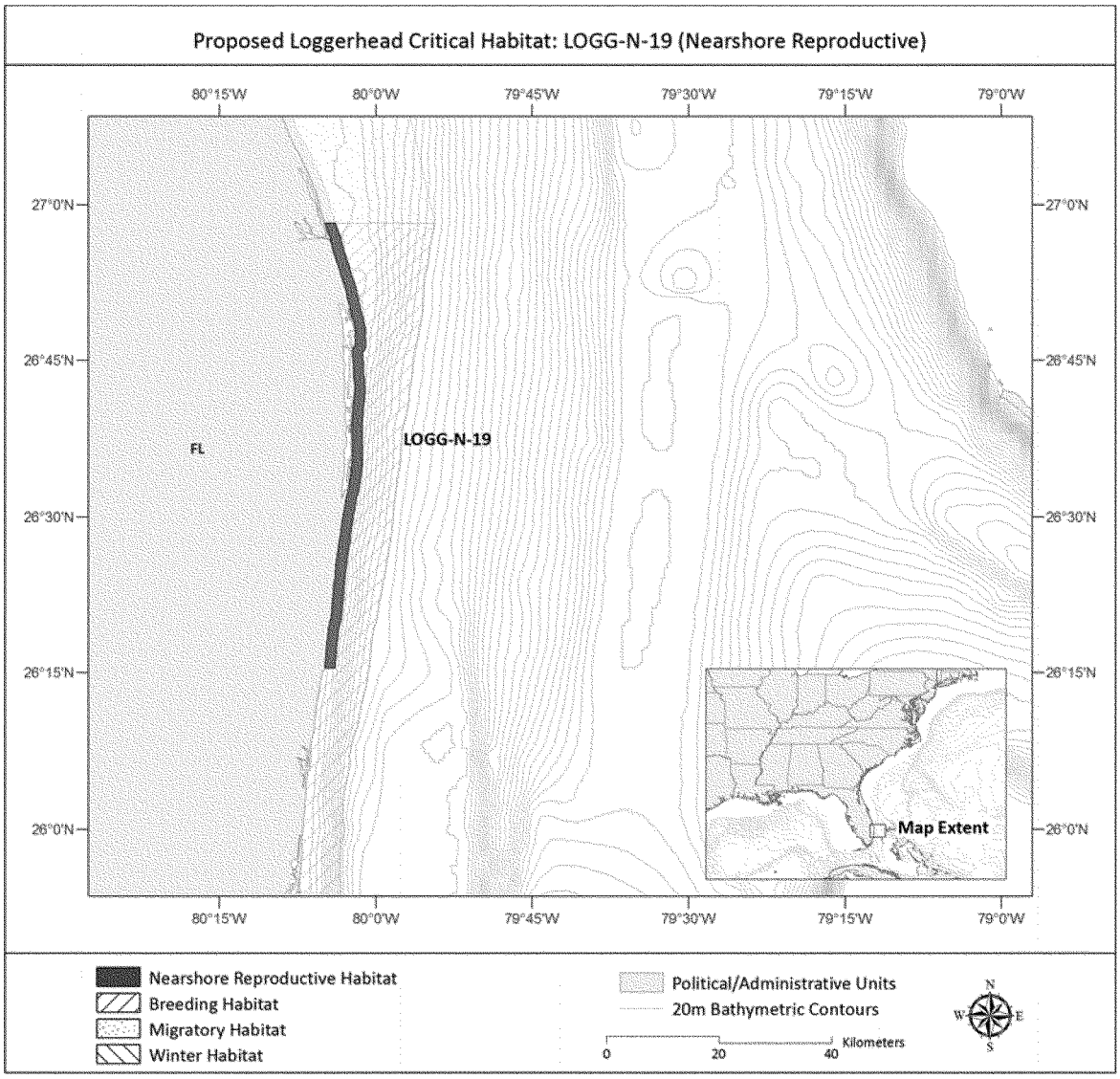
0
20
40
Kilometers
N
W
E
S


Proposed Loggerhead Critical Habitat: LOGG-N-19 (Nearshore Reproductive, Breeding, Migratory)
82°0'W
81°30'W
81°0'W
80°30'W
80°0'W
79°30'W
79°0'W
27°0'N
26°30'N
26°0'N
25°30'N
25°0'N
24°30'N
24°0'N
FL
LOGG-N-19
Map Extent
Nearshore Reproductive Habitat
Breeding Habitat
Migratory Habitat
Winter Habitat
Political/Administrative Units
200m Bathymetric Contours
0
50
100
Kilometers
N
W
E
S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80°15'W
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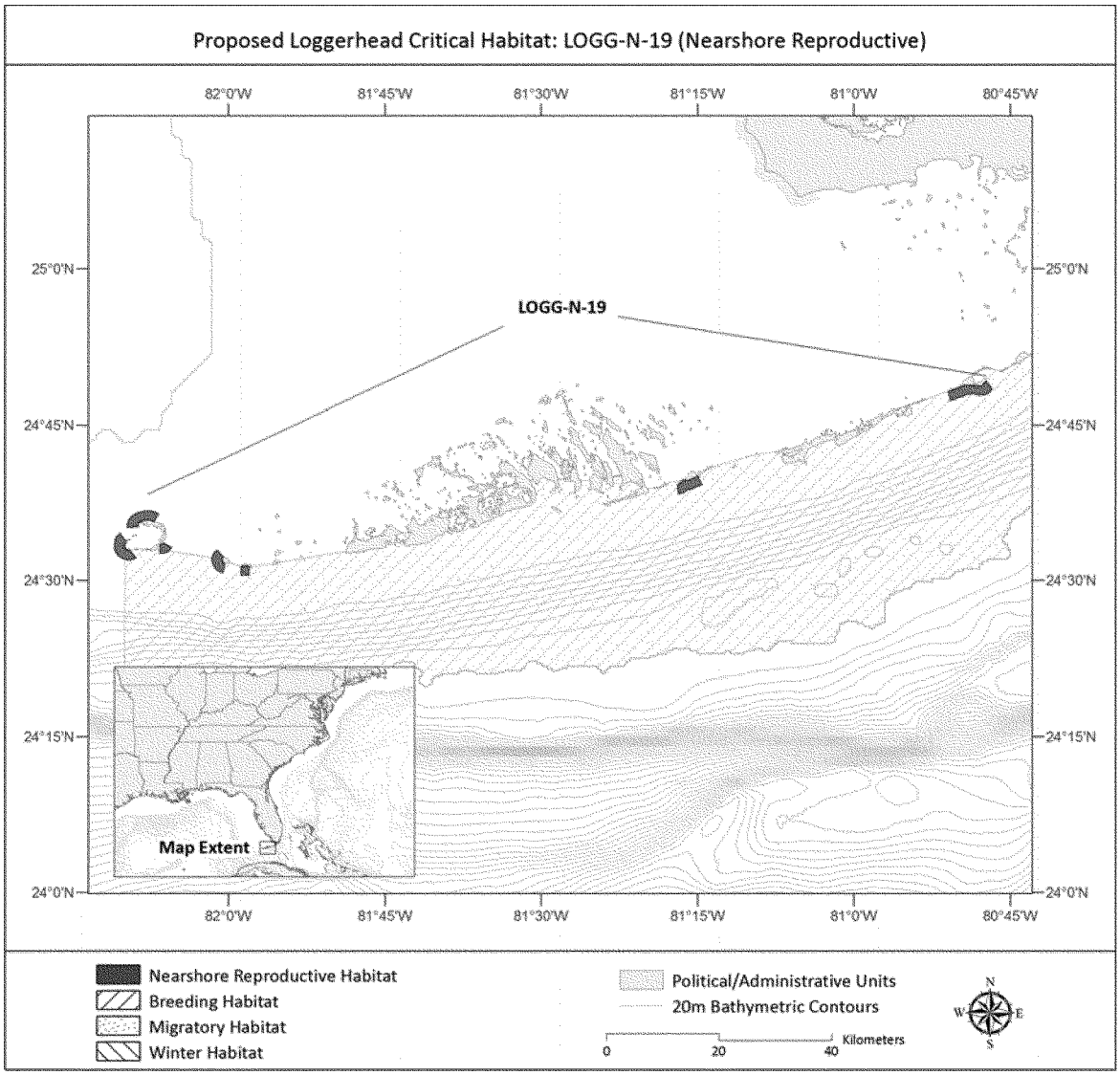
79°45'W
79°30'W
79°15'W
79°0'W
27°0'N
26°45'N
26°30'N
26°15'N
26°0'N
FL
LOGG-N-19
Map Extent
Nearshore Reproductive Habitat
Breeding Habitat
Migratory Habitat
Winter Habitat
Political/Administrative Units
20m Bathymetric Contours
0
20
40
Kilometers
N
W
E
S


Proposed Loggerhead Critical Habitat: LOGG-N-19 (Nearshore Reproductive)
82°0'W
81°45'W
81°30'W
81°15'W
81°0'W
80°45'W
25°0'N
24°45'N
24°30'N
24°15'N
24°0'N
LOGG-N-19
Map Extent
Nearshore Reproductive Habitat
Breeding Habitat
Migratory Habitat
Winter Habitat
Political/Administrative Units
20m Bathymetric Contours
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20
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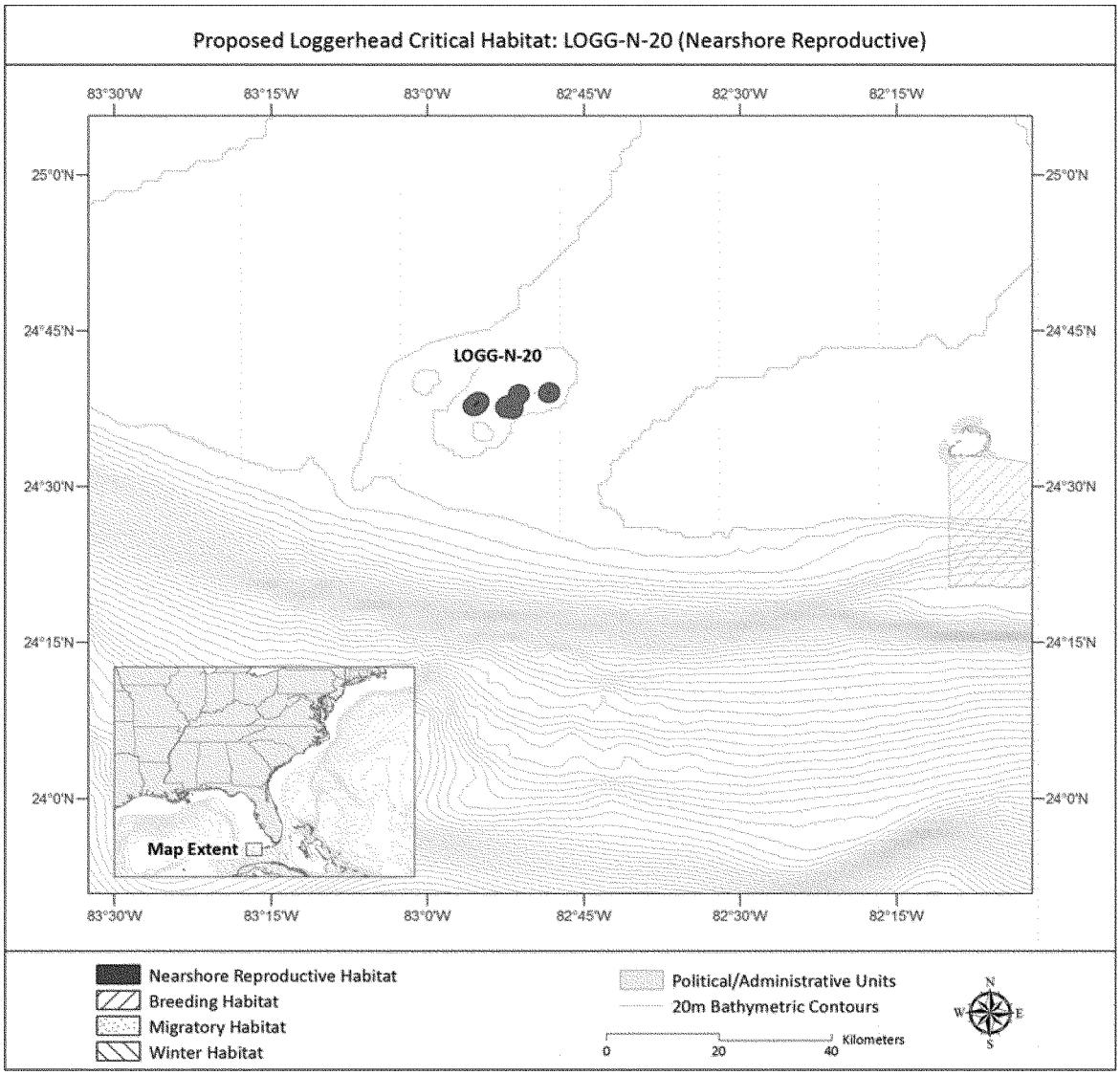
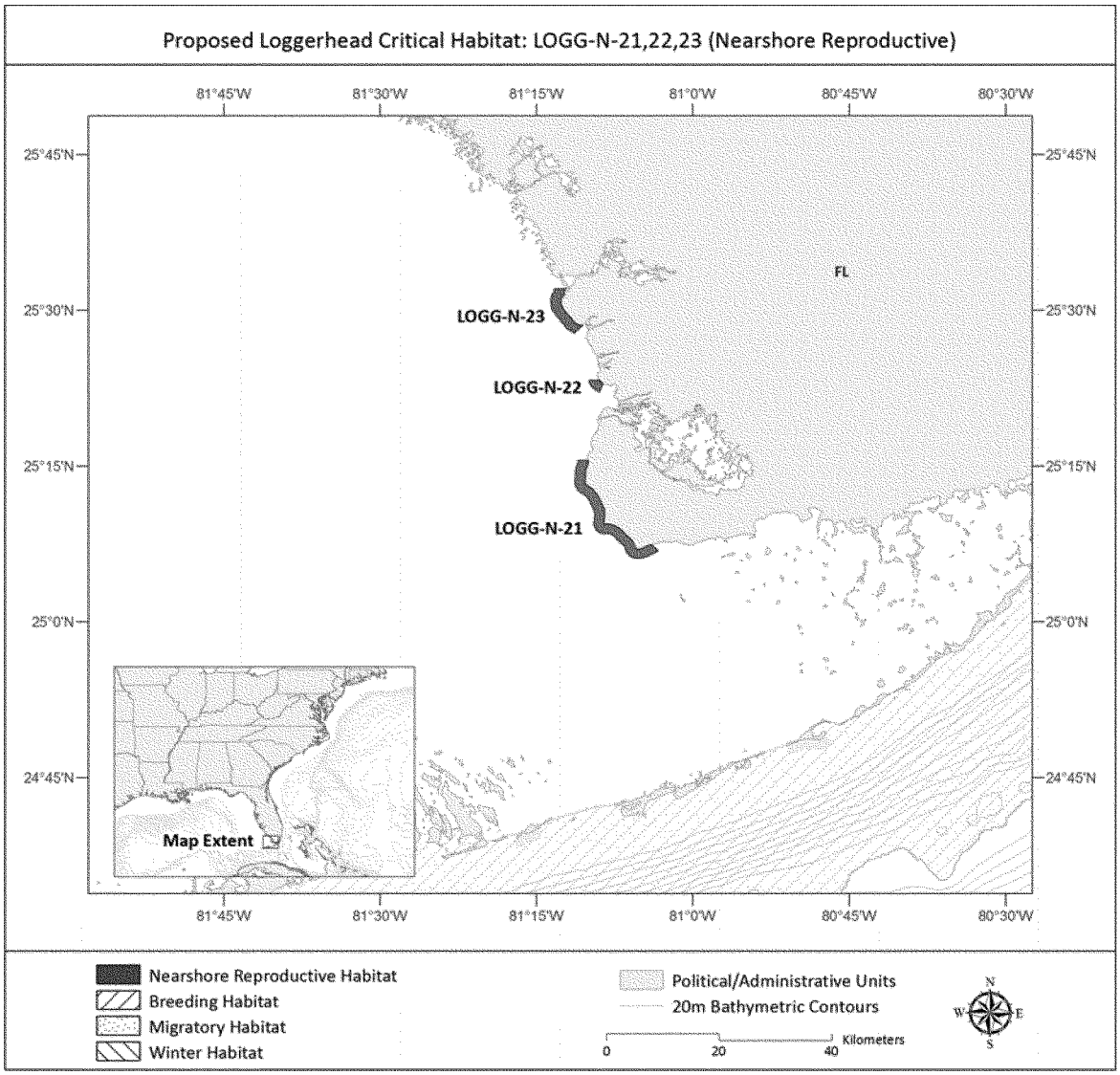
Kilometers
N
W
E
S


Proposed Loggerhead Critical Habitat: LOGG-N-20 (Nearshore Reproductive)
83°30'W
83°15'W
83°0'W
82°45'W
82°30'W
82°15'W
25°0'N
24°45'N
24°30'N
24°15'N
24°0'N
LOGG-N-20
Map Extent
Nearshore Reproductive Habitat
Breeding Habitat
Migratory Habitat
Winter Habitat
Political/Administrative Units
20m Bathymetric Contours
0
20
40
Kilometers
N
W
E
S


Proposed Loggerhead Critical Habitat: LOGG-N-21,22,23 (Nearshore Reproductive)
81°45'W
81°30'W
81°15'W
81°0'W
80°45'W
80°30'W
25°45'N
25°30'N
25°15'N
25°0'N
24°45'N
FL
LOGG-N-23
LOGG-N-22
LOGG-N-21
Map Extent
Nearshore Reproductive Habitat
Breeding Habitat
Migratory Habitat
Winter Habitat
Political/Administrative Units
20m Bathymetric Contours
0
20
40
Kilometers
N
W
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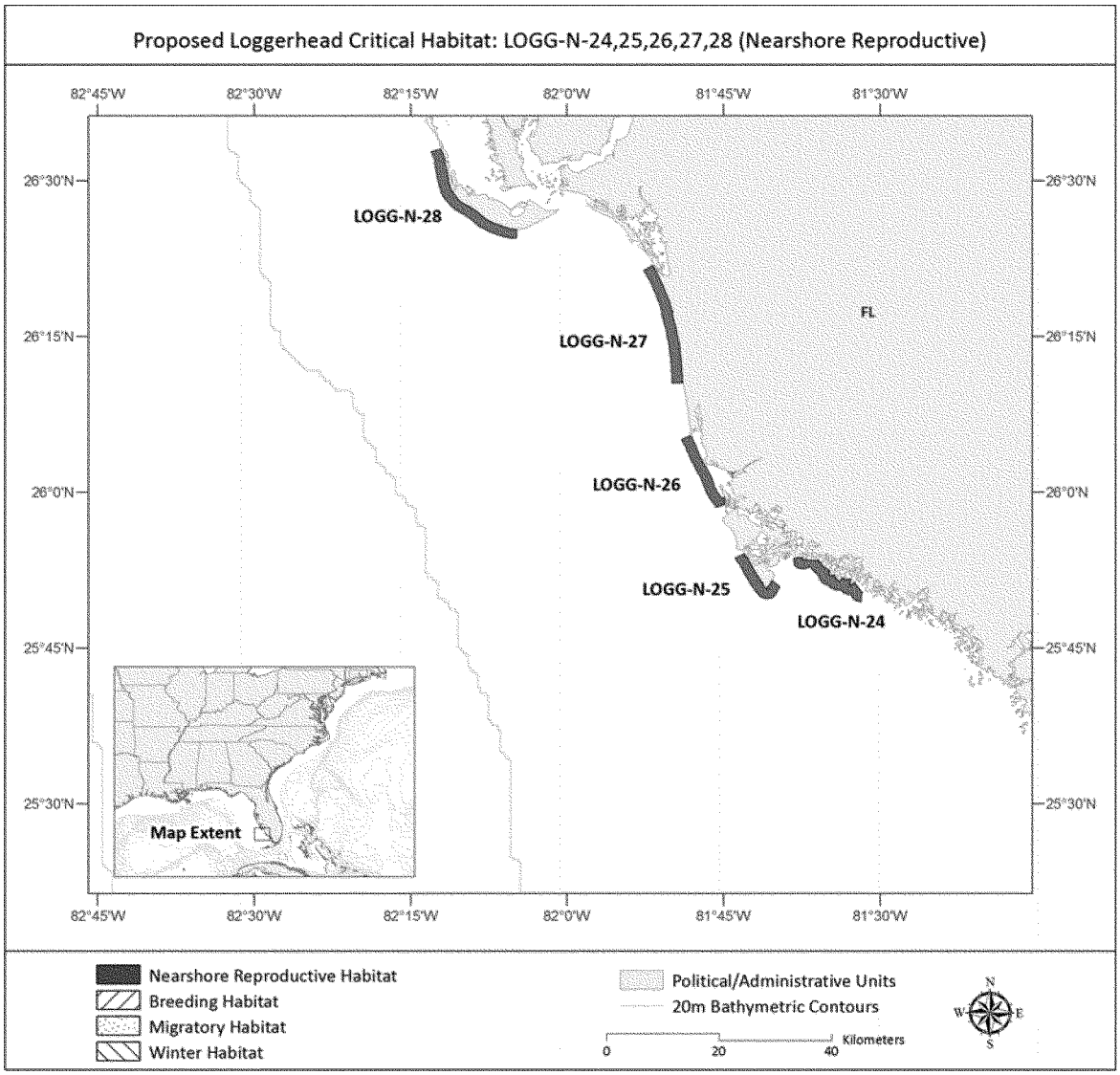
Proposed Loggerhead Critical Habitat: LOGG-N-24,25,26,27,28 (Nearshore Reproductive)
82°45'W
82°30'W
82°15'W
82°0'W
81°45'W
81°30'W
26°30'N
26°15'N
26°0'N
25°45'N
25°30'N
LOGG-N-28
LOGG-N-27
LOGG-N-26
LOGG-N-25
LOGG-N-24
FL
Map Extent
Nearshore Reproductive Habitat
Breeding Habitat
Migratory Habitat
Winter Habitat
Political/Administrative Units
20m Bathymetric Contours
0
20
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Kilometers
N
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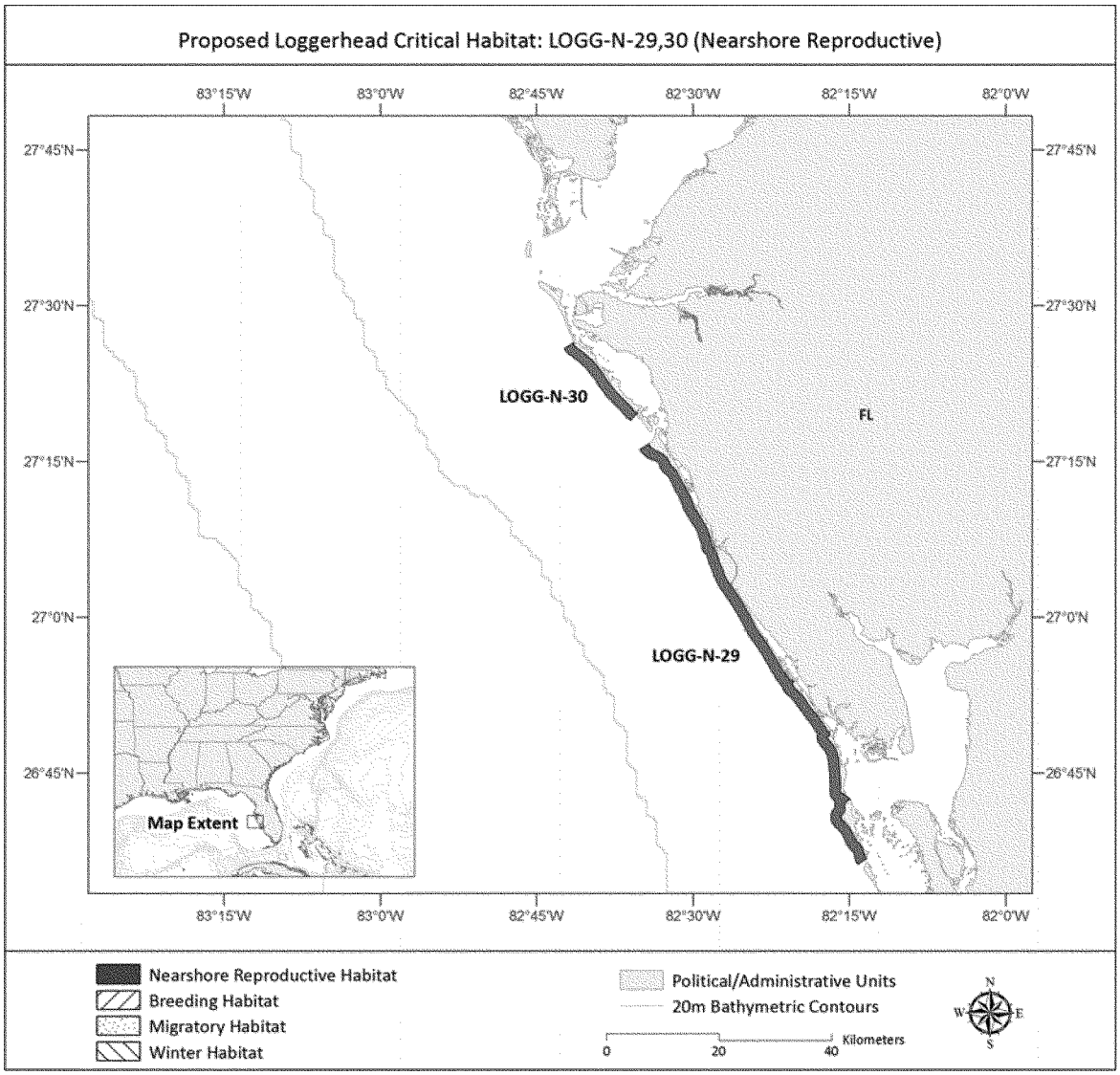
Proposed Loggerhead Critical Habitat: LOGG-N-29,30 (Nearshore Reproductive)
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83°0'W
82°45'W
82°30'W
82°15'W
82°0'W
27°45'N
27°30'N
27°15'N
27°0'N
26°45'N
LOGG-N-30
LOGG-N-29
FL
Map Extent
Nearshore Reproductive Habitat
Breeding Habitat
Migratory Habitat
Winter Habitat
Political/Administrative Units
20m Bathymetric Contours
0
20
40
Kilometers
N
W
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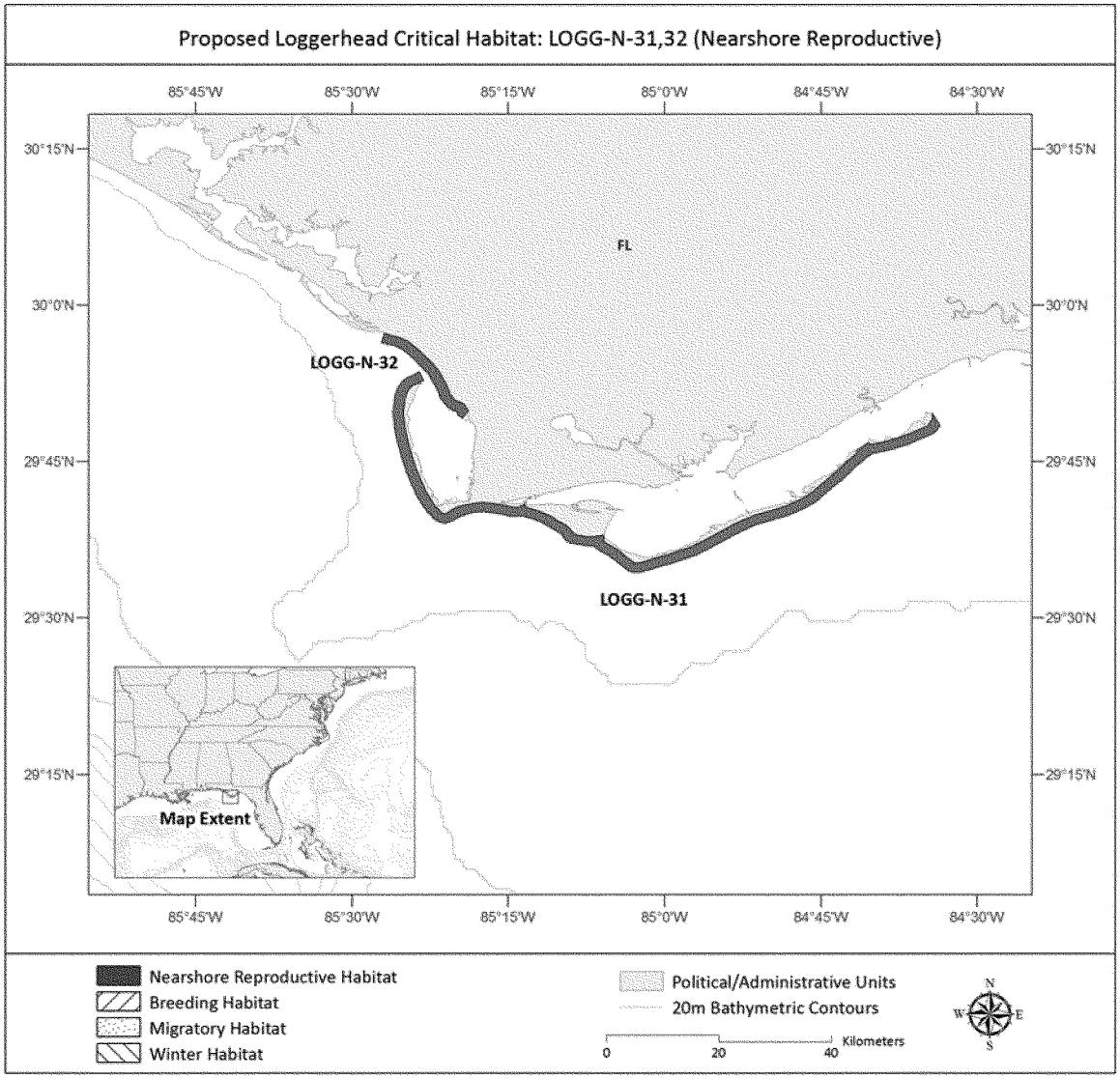
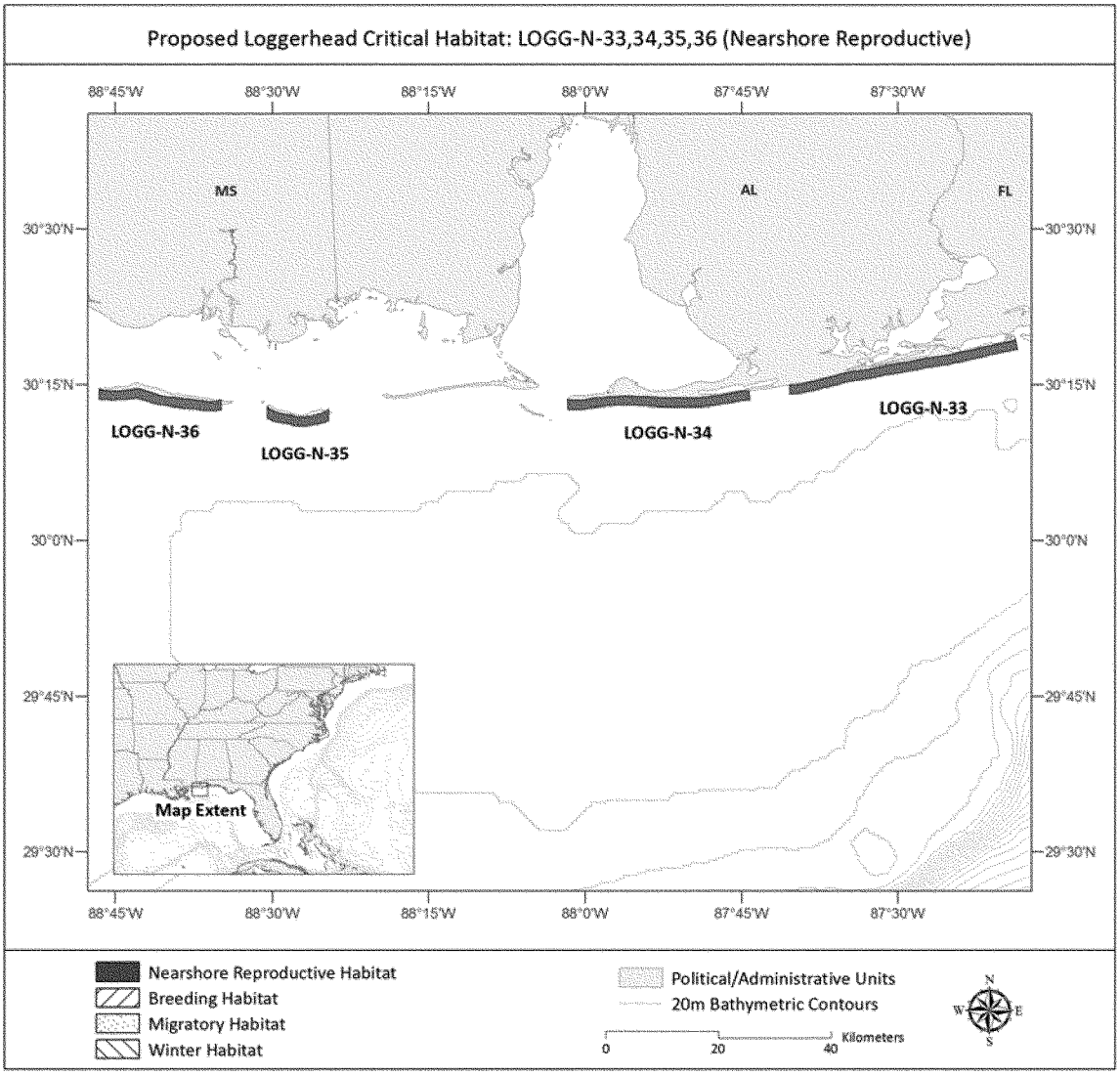
S


Proposed Loggerhead Critical Habitat: LOGG-N-31,32 (Nearshore Reproductive)
85°45'W
85°30'W
85°15'W
85°0'W
84°45'W
84°30'W
30°15'N
30°0'N
29°45'N
29°30'N
29°15'N
FL
LOGG-N-32
LOGG-N-31
Map Extent
Nearshore Reproductive Habitat
Breeding Habitat
Migratory Habitat
Winter Habitat
Political/Administrative Units
20m Bathymetric Contours
0
20
40
Kilometers
N
W
E
S



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FEDERAL REGISTER

Vol. 78 Thursday,

No. 138 July 18, 2013

Part III

The President

Executive Order 13649—Accelerating Improvements in HIV Prevention and Care in the United States Through the HIV Care Continuum Initiative

Federal Register
Vol. 78, No. 138
Thursday, July 18, 2013

Presidential Documents

Title 3—

The President

Executive Order 13649 of July 15, 2013

Accelerating Improvements in HIV Prevention and Care in the United States Through the HIV Care Continuum Initiative

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to further strengthen the capacity of the Federal Government to effectively respond to the ongoing domestic HIV epidemic, it is hereby ordered as follows:

Section 1. *Policy.* Addressing the domestic HIV epidemic is a priority of my Administration. In 2010, the White House released the first comprehensive National HIV/AIDS Strategy (Strategy), setting quantitative goals for reducing new HIV infections, improving health outcomes for people living with HIV, and reducing HIV-related health disparities. The Strategy will continue to serve as the blueprint for our national response to the domestic epidemic. It has increased coordination, collaboration, and accountability across executive departments and agencies (agencies) with regard to addressing the epidemic. It has also focused our Nation's collective efforts on increasing the use of evidence-based approaches to prevention and care among populations and in regions where HIV is most concentrated.

Since the release of the Strategy, additional scientific discoveries have greatly enhanced our understanding of how to prevent and treat HIV. Accordingly, further Federal action is appropriate in response to these new developments. For example, a breakthrough research trial supported by the National Institutes of Health showed that initiating HIV treatment when the immune system was relatively healthy reduced HIV transmission by 96 percent. In addition, evidence suggests that early treatment may reduce HIV-related complications. These findings highlight the importance of prompt HIV diagnosis, and because of recent advances in HIV testing technology, HIV can be detected sooner and more rapidly than ever before.

Based on these and other data, recommendations for HIV testing and treatment have changed. The U.S. Preventive Services Task Force now recommends that clinicians screen all individuals ages 15 to 65 years for HIV, and the Department of Health and Human Services Guidelines for Use of Antiretroviral Agents now recommends offering treatment to all adolescents and adults diagnosed with HIV.

Furthermore, ongoing implementation of the Affordable Care Act provides a historic opportunity for Americans to access affordable, quality health care. The Act is expanding access to recommended preventive services with no out-of-pocket costs, including HIV testing, and, beginning in 2014, insurance companies will not be able to deny coverage based on pre-existing conditions, including HIV. Starting October 1, 2013, Americans can select the coverage that best suits them through the new Health Insurance Marketplace, and coverage will begin January 1, 2014.

Despite progress in combating HIV, important work remains. Since the publication of the Strategy, data released by the Centers for Disease Control and Prevention show that there are significant gaps along the HIV care continuum—the sequential stages of care from being diagnosed to receiving optimal treatment. Nearly one-fifth of the estimated 1.1 million people living with HIV in the United States are undiagnosed; one-third are not linked to medical care; nearly two-thirds are not engaged in ongoing care; and only one-quarter have the virus effectively controlled, which is necessary to maintain long-term health and reduce risk of transmission to others.

In light of these data, we must further clarify and focus our national efforts to prevent and treat HIV infection. It is the policy of my Administration that agencies implementing the Strategy prioritize addressing the continuum of HIV care, including by accelerating efforts to increase HIV testing, services, and treatment along the continuum. This acceleration will enable us to meet the goals of the Strategy and move closer to an AIDS-free generation.

Sec. 2. *Establishment of the HIV Care Continuum Initiative.* There is established the HIV Care Continuum Initiative (Initiative), to be overseen by the Director of the Office of National AIDS Policy. The Initiative will mobilize and coordinate Federal efforts in response to recent advances regarding how to prevent and treat HIV infection. The Initiative will support further integration of HIV prevention and care efforts; promote expansion of successful HIV testing and service delivery models; encourage innovative approaches to addressing barriers to accessing testing and treatment; and ensure that Federal resources are appropriately focused on implementing evidence-based interventions that improve outcomes along the HIV care continuum.

Sec. 3. *Establishment of the HIV Care Continuum Working Group.* There is established the HIV Care Continuum Working Group (Working Group) to support the Initiative. The Working Group shall coordinate Federal efforts to improve outcomes nationally across the HIV care continuum.

(a) *Membership.* The Working Group shall be co-chaired by the Director of the Office of National AIDS Policy and the Secretary of Health and Human Services or designee (Co-Chairs). In addition to the Co-Chairs, the Working Group shall consist of representatives from:

(i) the Department of Justice;

(ii) the Department of Labor;

(iii) the Department of Health and Human Services;

(iv) the Department of Housing and Urban Development;

(v) the Department of Veterans Affairs;

(vi) the Office of Management and Budget; and

(vii) other agencies and offices, as designated by the Co-Chairs.

(b) *Consultation.* The Working Group shall consult with the Presidential Advisory Council on HIV/AIDS, as appropriate.

(c) *Functions.* As part of the Initiative, the Working Group shall:

(i) request and review information from agencies describing efforts to improve testing, care, and treatment outcomes, and determine if there is appropriate emphasis on addressing the HIV care continuum in relation to other work concerning the domestic epidemic;

(ii) review research on improving outcomes along the HIV care continuum;

(iii) obtain input from Federal grantees, affected communities, and other stakeholders to inform strategies to improve outcomes along the HIV care continuum;

(iv) identify potential impediments to improving outcomes along the HIV care continuum, including for populations at greatest risk for HIV infection, based on the efforts undertaken pursuant to paragraphs (i), (ii), and (iii) of this subsection;

(v) identify opportunities to address issues identified pursuant to paragraph (iv) of this subsection, and thereby improve outcomes along the HIV care continuum;

(vi) recommend ways to integrate efforts to improve outcomes along the HIV care continuum with other evidence-based strategies to combat HIV; and

(vii) specify how to better align and coordinate Federal efforts, both within and across agencies, to improve outcomes along the HIV care continuum.

(d) *Reporting.*

(i) Within 180 days of the date of this order, the Working Group shall provide recommendations to the President on actions that agencies can take to improve outcomes along the HIV care continuum.

(ii) Thereafter, the Director of the Office of National AIDS Policy shall include, as part of the annual report to the President pursuant to section 1(b) of my memorandum of July 13, 2010 (Implementation of the National HIV/AIDS Strategy), a report prepared by the Working Group on Government-wide progress in implementing this order. This report shall include a quantification of progress made in improving outcomes along the HIV care continuum.

Sec. 4. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

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

(ii) the functions of the Director of 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,
July 15, 2013.

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Filed 7–17–13; 11:15 am]
Billing code 3295–F3

Reader Aids

Federal Register

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